



Notice of 2023 Annual Meeting of Shareholders
2023 Proxy Statement
and
2022 Annual Report on Form 10-K

Kroger®

FAMILY OF COMPANIES

Kroger

Baker's

City Market

Dillons
FOOD STORES®

Fred Meyer

Food 4 Less

Foods Co.

fry's
FOOD STORES®

Gerb's
Super Markets

Jay C
FOOD STORES

KING
Scoopers

metro
market™

Mariano's

Owen's

Pay Less
Super Markets

Pick 'n Save

Ralphs

Ruler
FOODS

Smith's

:\$4.51°


HOME CHEF

Kroger
PERSONAL FINANCE

Kroger+
health

Murray's
WE KNOW FOODS


VITACOST

Dear Fellow Shareholders,

One of the things I love about food retail is that customers are always evolving. As tastes and needs continually shift, accommodating those shifts with agility earn us the privilege of continuing to serve our customers. This is what makes our industry so exciting.

The ways customers shop for food is ever evolving and always changing. Customers used to shop once a week, checking off items from handwritten lists. Today, our customers manage their groceries with a mix of in-person and online shopping, rely on digital technologies to make lists and track spending, and shop for more ready-made meal solutions. Outside our stores, we know customers spend approximately half of their food budgets at restaurants.

What hasn't changed is our passion to deliver fresh, affordable food to the communities we serve and inspire our customers to discover their love for food. Our business model is built around offering fresh products at competitive prices with no compromise on quality, selection, and convenience. This is a time-tested approach in any operating environment, and we remain committed to it into the future. Every day, we provide our customers with lower prices on the foods they love and more choices to meet their needs and wants.

Our passion for our customers, associates and communities is also on display in our willingness to take on difficult challenges and see them through. We see it in the way our store and supply chain teams respond to natural disasters, always the first to help our communities. We see it in the way our associates worked with the White House, governors, and mayors to ensure America had access to fresh, affordable food during the pandemic. And we see it in our willingness to address one of our food systems most intractable challenges – that more than 40% of the food produced goes to waste each year while one in eight Americans struggle with hunger – through our Zero Hunger | Zero Waste impact plan.

Kroger has the fortitude to take on these challenges because we know that when we take care of our customers, associates and communities, our shareholders will benefit.

We continue delivering value for our shareholders. On a three-year basis, Kroger's adjusted net earnings per diluted share has grown at a compounded annual growth rate of 24.5% which has helped support a total shareholder return of 78.2% over the same period.

This incredible outcome is the result of our dedicated and thriving associates delivering a full, fresh and friendly experience for more than 11 million customers every day. It's no wonder Kroger was recently included in a list of America's Most Trustworthy Companies. From our manufacturing facilities and fulfillment centers to our store and office teams, we appreciate everything our associates do to embody Our Purpose: *To Feed the Human Spirit.*

Our associates are driving consistent execution of our go-to-market strategy in every interaction, everyday positioning the company for sustainable, long-term growth.

Kroger is building momentum and has the people, the plan, and the operational discipline to win today and in the future.

* * *

Update on proposed merger with Albertsons Co.

In October 2022, we announced our definitive merger agreement with Albertsons Companies, Inc. We are incredibly impressed with the Albertsons team and their commitment to their associates, culture, customers, and communities.

Lower prices. More Choices.

We believe bringing our highly complementary organizations together will provide customers with lower prices and more choices. Our proposed merger will mean more value for our customers, with lower prices and more food choices to discover. And we will begin on day one post-close, with \$500 million already committed to bringing down prices.

Empower our associates' success

Our associates are responsible for our success, and we are committed to investing in theirs. The proposed combination will secure the long-term future of union jobs while creating a more competitive alternative to larger, non-union retailers. We have already committed \$1 billion to continue raising associate wages and comprehensive, industry-leading benefits.

It is vital that we support our associates as they explore what their individual career paths will be. So many of our associates come to Kroger to experience their first job. In 2022, approximately 20% of our new hires were 18 years old or younger. It is amazing that Kroger introduces so many young people to a fulfilling career in the grocery industry. We demonstrate how our associates can choose from many different paths and how a foundation in amazing customer service supports associates' long-term goals, no matter where associates choose to build their careers.

At Kroger, associates get to help families discover healthier answers to the question, "what's for dinner tonight," create technology that makes customers' shopping trips simpler; make healthcare more accessible for their neighbors – and even dream up a job that has yet to be created. The career opportunities are truly endless.

Build healthier communities free of hunger

The proposed merger will also allow our organization to invest in our communities in ways we simply cannot do on our own. I am so proud of what we have accomplished in our Zero Hunger | Zero Waste work and am impressed by the Albertsons team's commitment to supporting their communities as outlined in their Recipe for Change plan. We know that when families eat together, it supports their children's success across all aspects of their lives. I cannot wait to see how our combined efforts will connect people with the meals they need to thrive.

We look forward to continue working cooperatively with regulators and remain on track for a projected closure of the merger in early 2024.

2022 in Review

As the pandemic continued to fade and inflation caused ongoing economic uncertainty, our associates showed up for our customers. Last year, Kroger associates did everything we could to minimize the impact of inflation and help stretch tight food budgets so families could access fresh, affordable food, with zero compromise on convenience or selection. Our *Leading with Fresh and Accelerating with Digital* strategy and key focus areas of Fresh, *Our Brands*, seamless and personalization give us the flexibility to navigate a changing operating environment – all while providing value to our customers and our associates. We will continue to consider a five- to ten-year time horizon as we make key decisions.

During the year, we:

- Achieved positive identical sales without fuel of 5.6%
- Increased associate wages, resulting in an average hourly wage of \$18 and rate of more than \$23 with comprehensive benefits
- Exceeded \$1 billion in cost savings for the fifth consecutive year
- Announced 14 additional Kroger Delivery locations across the U.S.

The subsequent sections will highlight progress we made across our business in 2022 and ways we intend to continue building on our momentum moving forward.

Leading with Fresh

For us, *Fresh for Everyone*TM is more than a brand promise. It's a commitment to bringing fresh, affordable foods to more people in more neighborhoods. Fresh foods are central to families living healthy, thriving lives. And our customers prioritize fresh when they shop with Kroger – with more than more than 90% of customers purchasing fresh foods. Many companies claim they are focused on fresh – we have demonstrated success in creating fresher shopping experiences, and our customers are rewarding us for it.

In the last year, we continued to put our focus on fresh, both with our in-store and e-commerce experiences. The End-to-End Fresh initiative is at the center of how we are changing the way we bring fresh to life in our stores. Today, we have more than 1,400 stores implementing this initiative in their produce departments, driving higher produce and overall store sales. We look forward to exploring how we can expand this work in other fresh departments in 2023 and beyond.

We are also working closely with our technology and supply chain teams to understand ways we can add days of freshness to our products. From optimizing delivery routes to simplifying associate tasks, we want to ensure our customers can buy food at its peak of freshness and trust those items will remain fresh in their homes.

Freshness is also important when we think about innovation in Our Brands. In 2022, we launched a simplified opening-price-point brand known as Smart WayTM. This new concept is easily identifiable for customers who want to stretch their budgets. It joins Kroger's carefully curated, extensive Our Brands portfolio, which includes the company's namesake Kroger brand, Simple Truth®, Private Selection®, Home Chef® and Heritage Farm®, among others.

In addition to the Smart Way brand introduction, we launched more than 680 new, unique *Our Brands* products last year. We engage with food trends throughout the year to understand what our customers are craving and ensure we have those items on our shelves. We aim to bring every customer the high-quality, affordable products they love – from pantry staples and fresh foods to ready-to-heat, restaurant-quality meals.

Accelerating with Digital

We continue to invest in our seamless ecosystem – bringing our customers the products they love when and where they want them. We see customers shift the ways they interact with us based on their individual needs, which aligns with our vision of a truly seamless shopping experience.

Our goal remains to be there for our customers – however they need us in a particular moment.

When it fits their day's plans, customers may choose to shop in our stores. Sometimes, they find a Kroger Delivery order easier during a busy weekend. Or when nothing looks good in the refrigerator or the last paper towel comes off the roll, we're here with Kroger Delivery Now, delivering in as little as 30 minutes. We remain well-positioned to achieve double-digit digital growth in the next three years.

Our brick-and-mortar stores and automated fulfillment centers work together to ensure our customers have access to the fresh foods and pantry staples they want when they need them most.

Our efforts to bring a truly personalized shopping experience to life are creating value for our customers. We serve the right promotions at the right time, directly to the customers who would be most interested in the offer. From providing suggestions to start a basket to offering a new item, we are providing customers real value. In 2022 alone, customers saved \$1.4 billion through a combination of paper and digital coupons.

Last year, we also launched Boost by Kroger, the retail industry's most-affordable membership program. We are already exceeding internal expectations in both incremental engagement and household spend. We look forward to evolving our membership program to appeal to more customers and create additional value.

The *Accelerating with Digital* piece of our strategy continues to drive our profit flywheel. We are improving margins by reducing digital cost-to-serve, all while growing our alternative profit streams.

Investing in Our Associates

Our associates are at the heart of everything we do. I am always impressed at the ways they create memorable food moments for our customers every day. I regularly think back to my time working in a Kroger store when I began my career more than 40 years ago. I learned how to run a successful store, how to create real community with my customers and coworkers, and how important our stores are to the neighborhoods they serve.

Kroger provides opportunities for people seeking their first job, a new beginning, or a new challenge to discover a fulfilling career path. And we continue to invest in our associates. Earlier this year we committed nearly \$800 million to raise wages and benefits, create new training opportunities, and improve healthcare options in 2023.

This investment builds on our \$1.9 billion in incremental investments in wages and comprehensive benefits Kroger has made since 2018. As a result, we raised our average hourly rate to \$18, or \$23.50 an hour with comprehensive benefits.

We understand we must support our associates' holistic well-being. To accomplish this goal, Kroger creates programs that power our associates' growth, including a world-class educational benefit program offering associates up to \$21,000 toward continuing education opportunities – whatever that may mean to our associates. In 2022 alone, more than 5,000 people engaged with this program. We provide affordable, accessible healthcare options, which includes free counseling. Also in 2022, we introduced a first-of-its-kind free financial coaching services to all our hourly associates. We remain committed to helping our associates thrive in their careers and at home, ensuring Kroger remains an employer of choice.

Environmental Sustainability and Social Impact

Kroger is committed to responsible sourcing practices, respecting human rights, and advancing animal welfare. Our comprehensive programs hold our suppliers accountable to meet our high standards and support our continual improvement. We rely on deep knowledge from our category sourcing leaders, data insights and input from our investors, industry groups, NGOs, and subject-matter experts.

In 2022, we published our greenhouse gas (GHG) reduction goal roadmap. We are diligently working to reduce absolute Scope 1 and 2 GHG emissions from our operations by 30% by 2030 against a 2018 baseline. This goal was developed using climate science, supporting a well-below 2°C climate scenario according to the absolute contraction method.

Kroger made considerable progress against our *Framework for Action: Diversity, Equity & Inclusion* plan. Launched in 2020, this action plan is accelerating change across the entire company. Since its introduction, we successfully provided unconscious bias training to all leaders and nearly half a million associates. We are working with 53 Historically Black Colleges and Universities, and institutions serving Hispanic, Asian American and Pacific Islander, and Native American students. And we are taking strong steps to achieve our goal of increasing our spend with diverse suppliers to \$10 billion annually by 2030.

We are growing the many ways we participate in our communities – both big and small. In 2022, we celebrated the fifth anniversary of our Zero Hunger | Zero Waste impact plan. Since its inception, we

directed more than \$1.65 billion in food and funds to help end hunger, which includes more than 2.3 billion meals. We remain on track to donate 3 billion meals to our neighbors by 2025.

One accomplishment I am so proud of is our stores' work to achieve 100% execution of our food rescue program in participating Kroger stores. Flawless execution is an ideal for which we always strive. It is inspirational to see the way our store teams embrace our mission of providing healthy food to their communities.

Looking to the Future

I am optimistic for what 2023 and beyond will mean for Kroger, our customers, our associates, and our communities. We are committed to providing the freshest food to our customers, with zero compromise on value, convenience, or selection. We are investing in the business to continuously optimize our approach to freshness – and our customers are taking notice. Our teams are always looking for new opportunities to bring fresh *Our Brands* items to our customers, both capitalizing on food trends and creating experiences that can only come from Kroger.

Customers continue to expect the convenience our digital experience offers. We are working toward innovative ways to ensure grocery shopping fits easily into our customers' days – whether they are looking for a need-it-now item, a weekly stock-up shop, or the perfect ingredient to make a special meal more memorable. And we do more than make it convenient – we make the shopping experience personal. We know our customers, and we earn their trust daily by providing engaging offers on the foods they love.

And our amazing associates bring it all to life. In addition to creating a full, fresh, and friendly shopping experience for every customer, every time, our associates are committed to making their communities a better place to live. This year, we are recognizing 50 outstanding associates who raised significant funds for our Zero Hunger | Zero Waste Foundation. These dollars support our nonprofit partners across America who are working to create communities free from hunger and waste. Congratulations to each of these "Zero Heroes" for making measurable change for your neighbors.

I would like to thank our customers, associates, and shareholders for your ongoing support for Kroger. I look forward to everything we will do together in the year ahead.

With gratitude,

A handwritten signature in black ink that reads "Rodney". The signature is fluid and cursive, with a large, stylized "R" at the beginning.

Rodney McMullen
Chairman and CEO, The Kroger Co.

Safe Harbor Statement

This letter contains “forward-looking statements” within the meaning of the safe harbor provisions of the United States Private Securities Litigation Reform Act of 1995 about future performance of Kroger, including with respect to Kroger’s ability to achieve sustainable net earnings growth, strategic capital deployment, strong and attractive total shareholder return, strong free cash flow and ability to increase the dividend, ability to achieve certain operational goals, as well as ESG targets, goals, and commitments outlined in this proxy statement, or elsewhere among other statements. These statements are based on management’s assumptions and beliefs in light of the information currently available to it. These statements are indicated by words such as “will,” “aim,” “model,” “driving,” “goal,” “plan,” “continue,” “on track,” “committed” and “believe,” as well as similar words or phrases. These statements are subject to known and unknown risks, uncertainties and other important factors that could cause actual results and outcomes to differ materially from those contained in the forward-looking statements, including the specific risk factors identified in “Risk Factors” in Kroger’s most recent Annual Report on Form 10-K and any subsequent filings with the Securities and Exchange Commission. Kroger assumes no obligation to update the information contained herein, unless required to do so by applicable law.

Zero Hunger | Zero Waste: Associate Fundraising Heroes

The Kroger Co. Zero Hunger | Zero Waste Foundation is a nonprofit public charity designed to help align philanthropy with the company's Zero Hunger | Zero Waste social and environmental impact plan. We invite customers of the Kroger Family of Companies to join our journey by rounding up their purchase to the nearest dollar at checkout to benefit the Zero Hunger | Zero Waste Foundation.

Cashiers across the country are leading the way in activating donations through Round Up. Dollars raised are directed to nonprofit partners that help end hunger and waste in our communities. These are our 2022 Zero Heroes:

Atlanta Division

Jessica Wellborn
Dianne Perkins
Rachel Dickens
Betalhem Tolla

Fred Meyer Division

Pat Sears

Mid-Atlantic Division

Dee Dee Hamby

Central Division

Carol Dietz
Jess Warburton
Rebekah Lehman
Sheri Fornter

Fry's Division

Jayne Cota
Melissa Horowitz
Barbara Stockton

Nashville Division

Linda Whitfield

Cincinnati-Dayton Division

Jen Tudor

Houston Division

Debra Van Matre
Mashuny Squierdo

Ralphs Division

John Dailey
Marquett Valencia
Debra Sutton
Pedro Daniel

Columbus Division

Colleen Burrows

King Soopers Division

Chris Vellos
Dan Cahill

Roundy's Division

Nancy Johnson

Dallas Division

Jon Mullin
Julie Olinick
Tonja Buckley

Louisville Division

Stacey Harrison
Laury Shulhafer
Robin Adams

QFC Division

Kurt Mincin
Amber Brask

Delta Division

Sherbert Ware
Laura Sparks
Mae Watson

Mariano's Division

Loran Henderson
Vikki Hornbaker

Smith's Division

Tonya Tall

Dillons Division

Trista Soendker
Pam Meyer
Joan Rogers

Michigan Division

Tammy Depuy
Tracey Regits

Food 4 Less

Jimmy Hu
Maricruz Chico
Mayra Sanguino
Rufina Kriefel

Food 4 Less - MW

Tamara Primm
Rohel Terrazas

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Proxy Summary

This summary highlights information contained elsewhere in this Proxy Statement. It does not contain all of the information that you should consider. You should read the entire Proxy Statement carefully before voting.

Overview of Voting Matters and Board Recommendations

Proposals	Board Recommendation
No. 1 – <u>Election of Directors</u>	FOR Each Director Nominee recommended by your Board
No. 2 <u>Advisory Vote to Approve Executive Compensation</u>	FOR
No. 3 <u>Advisory Vote on Frequency of Future Advisory Votes on Executive Compensation</u>	ONE YEAR
No. 4 <u>Ratification of Independent Auditors</u>	FOR
Nos. 5 – 9 <u>Shareholder Proposals</u>	AGAINST Each Proposal

Corporate Governance Highlights

Kroger is committed to strong corporate governance. We believe that strong governance builds trust and promotes the long-term interests of our shareholders. Highlights of our corporate governance practices include the following:

Board Governance Practices

- ✓ Strong Board oversight of enterprise risk.
- ✓ Strong experienced independent Lead Director with clearly defined role and responsibilities.
- ✓ Commitment to Board refreshment and diversity.
- ✓ 5 of 11 director nominees are women.
- ✓ The chairs of the Audit, Finance, and Public Responsibilities Committees are women.
- ✓ Annual evaluation of the Chairman and CEO by the independent directors, led by the independent Lead Director.
- ✓ All director nominees are independent, except for the CEO.
- ✓ All five Board Committees are fully independent.
- ✓ Annual Board and Committee self-assessments conducted by independent Lead Director or an independent third party.
- ✓ Regular executive sessions of the independent directors, at the Board and Committee level.
- ✓ High degree of Board interaction with management to ensure successful oversight and succession planning.
- ✓ Balanced tenure.
- ✓ Robust shareholder engagement program.
- ✓ Robust code of ethics.

Environmental, Social, & Governance (ESG) Practices

- ✓ Long-standing Board Committee dedicated to ESG oversight — Public Responsibilities Committee — formed in 1977.
 - Amended the Committee Charter in 2021 to more specifically reflect the Committee's focused and prioritized approach to material ESG topics related to environmental issues, sustainability, and social impact
- ✓ Annual ESG report, sharing progress on our goals for Zero Hunger | Zero Waste, Just & Inclusive Economy, Food Waste, Operational Waste, Water, Packaging, Climate Impact, and Responsible Sourcing.
 - The 2022 ESG report represented the 16th year of describing our progress and initiatives regarding sustainability and other ESG matters
- ✓ Committed to transparency in our disclosure, informed by frameworks consistent with shareholder expectations:
 - SASB's Food Retailers and Distributors Standard
 - GRI Global Sustainability Reporting Standards
 - Task Force on Climate-related Financial Disclosures (TCFD) framework
- ✓ Established formal Diversity, Equity & Inclusion (DE&I) Framework for Action to:
 - Create a more inclusive culture
 - Develop diverse talent
 - Advance diverse partnerships
 - Advance equitable communities
 - Listen deeply and report progress
- ✓ Specifically include diverse candidates in every external executive officer and Board director search.
- ✓ Disclose EEO-1 data annually.

Shareholder Rights

- ✓ Annual director election.
- ✓ Simple majority standard for uncontested director elections and plurality in contested elections.
- ✓ No poison pill.
- ✓ Shareholders have the right to call a special meeting.
- ✓ Robust, long-standing shareholder engagement program with regular engagements, including with independent directors, to better understand shareholders' perspectives and concerns on a broad array of topics, such as corporate governance and ESG matters.
- ✓ Adopted proxy access for director nominees, enabling a shareholder, or group of up to 20 shareholders, holding 3% of the Company's common shares for at least three years to nominate candidates for the greater of two seats or 20% of Board nominees.

Compensation Governance

- ✓ Robust clawback and recoupment policy.
- ✓ Pay program tied to performance and business strategy.
- ✓ Majority of pay is long-term and at-risk with no guaranteed bonuses or salary increases.
- ✓ Stock ownership guidelines align executive and director interests with those of shareholders.
- ✓ Prohibition on all hedging, pledging, and short sales of Kroger securities by directors and executive officers.
- ✓ No tax gross-up payments to executives.

Environmental, Social, & Governance Strategy

Kroger's Environmental, Social & Governance Strategy is called *Thriving Together*. This strategy reflects the evolution of the Company's long history of operating responsibly, advancing economic opportunity and sustainability in our own operations and supply chain, and giving back meaningfully to our communities.

Our ESG objective is to achieve positive and lasting change through a shared-value framework that benefits people and our planet and creates more resilient systems for the future. The centerpiece of Kroger's ESG strategy is our Zero Hunger | Zero Waste social and environmental impact plan. Introduced five years ago, Zero Hunger | Zero Waste is an industry-leading platform for collective action and systems change at global, national, and local levels.

Our ESG strategy aims to address material topics of importance to our business and key stakeholders, including our associates, customers, shareholders, and others. Key ESG topics — informed by a structured materiality assessment and engagement with our shareholders and other stakeholders — align to three strategic pillars: People, Planet and Systems. Please see more details here in Kroger's annual ESG Report: <https://www.thekrogerco.com/wp-content/uploads/2022/08/Kroger-Co-2022-ESG-Report.pdf>. The information on, or accessible through, this website is not part of, or incorporated by reference into, this proxy statement.

Director Nominee Highlights

Name	Age*	Primary Occupation	Independent	Director Since	Standing Committee Membership					Other Public Company Boards
					A	C&T	CG	F	PR	
Nora A. Aufreiter	63	Director Emeritus of McKinsey & Company	✓	2014				●	☒	2
Kevin M. Brown	60	Executive Vice President and Chief Supply Chain Officer of Dell Technologies	✓	2021	●				●	
Elaine L. Chao	70	Former U.S. Secretary of Transportation and U.S. Secretary of Labor	✓	2021			●		●	2
Anne Gates	63	Former President of MGA Entertainment, Inc.	✓	2015	\$	☒		●		2
Karen M. Hoguet	66	Former Chief Financial Officer of Macy's, Inc.	✓	2019	\$	●			☒	
W. Rodney McMullen	62	Chairman of the Board and Chief Executive Officer of The Kroger Co.		2003						1
Clyde R. Moore	69	Former Chairman of First Service Networks	✓	1997		☒	●			
Ronald L. Sargent †	67	Former Chairman and Chief Executive Officer of Staples, Inc.	✓	2006	\$	●	☒		●	2
J. Amanda Sourry Knox (Amanda Sourry)	59	Former President of North America for Unilever	✓	2021		●		●		1
Mark S. Sutton	61	Chairman and Chief Executive Officer of International Paper	✓	2017		●		●		1
Ashok Vemuri	55	Former Chief Executive Officer and Director of Conduent Incorporated	✓	2019	\$	●		●		1

A Audit Committee

C&T Compensation & Talent Development Committee

CG Corporate Governance Committee

F Finance Committee

PR Public Responsibilities Committee

● Member

☒ Committee Chair

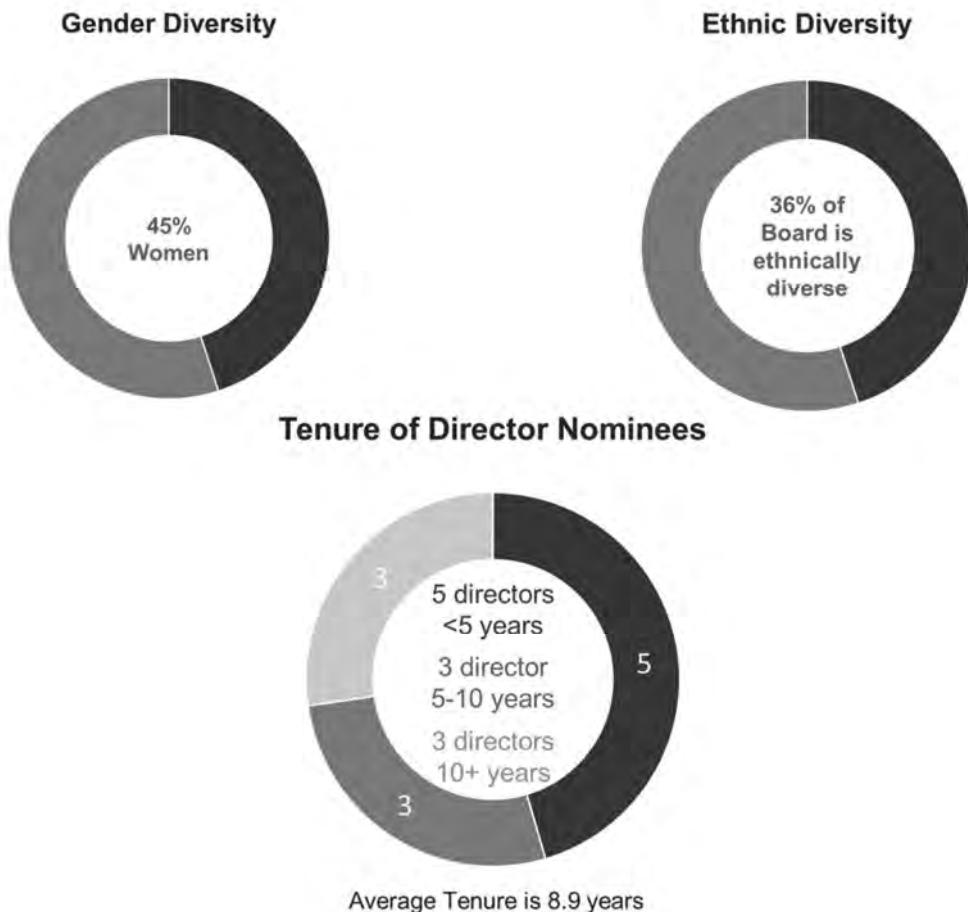
\$ Financial Expert

*Age as of record date

† Lead Director

2023 Director Nominee Snapshot

Diversity and Tenure



Skills and Experience

Key Attributes and Skills of All Kroger Director Nominees

- Intellectual and analytical skills
- High integrity and business ethics
- Strength of character and judgement
- Ability to devote significant time to Board duties
- Desire and ability to continually build expertise in emerging areas of strategic focus for our Company
- Demonstrated focus on promoting equality
- Business and professional achievements
- Ability to represent the interests of all shareholders
- Knowledge of corporate governance matters
- Understanding of the advisory and proactive oversight responsibility of our Board
- Comprehension of their his or her as a public company director and the fiduciary duties owed to shareholders
- Ability to work cooperatively with other members of the board

	Nora Aufreiter	Kevin Brown	Elaine Chao	Anne Gates	Karen Hoguet	Rodney McMullen	Clyde Moore	Ronald Sargent	Amanda Sourry	Mark Sutton	Ashok Vemuri	Total (of 11)
Business Management	•	•	•	•	•	•	•	•	•	•	•	11
Retail	•		•	•	•	•	•	•	•			6
Consumer	•	•	•	•	•	•	•	•	•			8
Financial Expertise	•	•	•	•	•	•	•	•	•	•	•	11
Risk Management		•	•	•	•	•	•	•	•	•	•	10
Operations & Technology	•	•	•	•		•	•	•	•	•	•	10
ESG	•	•	•	•	•	•	•	•	•	•	•	11
Manufacturing		•		•			•			•		4

2022 Compensation Highlights

Executive Compensation Philosophy

Executive Summary



We delivered exceptional performance in 2022. Kroger achieved exceptional results in 2022 as we executed on our *Leading with Fresh and Accelerating with Digital* strategy, building on record years in 2020 and 2021. We are delivering a fresh, affordable, and seamless shopping experience for our customers, with zero compromise on quality, selection, or convenience. We are delivering on our financial commitments through our strong, resilient Value Creation Model. In 2022, we achieved financial performance results of ID sales, without fuel, of 5.6%, and adjusted FIFO operating profit, including fuel, of \$5.1 billion¹.



Our executive compensation program aligns with long-term shareholder value creation. 91% of our CEO's target total direct compensation and, on average, 84% of the other NEOs' compensation is at risk and performance-based, tied to achievement of performance targets that are important to our shareholders or our long-term share price performance.



The annual performance incentive was earned above target reflecting our 2022 performance. The annual incentive program, based on a grid of identical sales, excluding fuel, and adjusted FIFO operating profit, including fuel, paid out at 192.40% of target. In light of macroeconomic conditions, including inflation, as well as the Compensation Committee's desire to create ongoing alignment with shareholders and reward sustained performance beyond 2022, the Compensation Committee determined to structure the payout to the NEOs as follows: 150% in cash and the remaining 42.4% in restricted stock vesting in one year.



The long-term performance incentive payout reflects alignment with performance over fiscal years 2020, 2021, and 2022. Long-term performance unit equity awards granted in 2020 and tied to commitments made to our investors and other stakeholders regarding long-term sales growth, adjusted FIFO operating profit growth, free cash flow generation, our commitment to Fresh, and Relative Total Shareholder Return were earned at 93.75% of target.

¹ See pages 27 – 33 of our Annual Report on Form 10-K for the fiscal year ended January 28, 2023, filed with the SEC on March 28, 2023, for a reconciliation of GAAP operating profit to adjusted FIFO operating profit.



We prioritized investment in our people. We strive to create a culture of opportunity for nearly 430,000 associates and take seriously our role as a leading employer in the United States. In 2022, we invested more than ever in our associates by continuing to raise our average hourly wage to \$18, or over \$23, including industry-leading benefits.



In response to our shareholder feedback, we incorporated an ESG metric focused on diversity and inclusion into our 2022 individual performance management program. Our core values of Diversity, Equity & Inclusion are incorporated into compensation decisions made for our associates who supervise a team of others, which range from store department leaders through our NEOs. These performance goals are factored into compensation decisions for these leaders, including salary increases and the amount of the annual grant of equity awards.

Summary of Key Compensation Practices

To achieve our objectives, the Compensation Committee seeks to ensure that compensation is competitive and that there is a direct link between pay and performance. To do so, it is guided by the following principles:

- Compensation must be designed to attract and retain those individuals who are best suited to be an NEO at Kroger.
- A significant portion of pay should be performance-based, with the percentage of total pay tied to performance increasing proportionally with an NEO's level of responsibility.
- Compensation should include incentive-based pay to drive performance, providing superior pay for superior performance, including both a short- and long-term focus.
- Compensation policies should include an opportunity for, and a requirement of, significant equity ownership to align the interests of NEOs and shareholders.
- Components of compensation should be tied to an evaluation of business and individual performance measured against metrics that directly drive our business strategy and progress toward our corporate ESG priorities.
- Compensation plans should provide a direct line of sight to company performance.
- Compensation programs should be aligned with market practices.
- Compensation programs should serve to both motivate and retain talent.

Names Executive Officers (NEOs) for 2022

For the 2022 fiscal year ended January 28, 2023, the NEOs were

Name	Title
W. Rodney McMullen	Chairman and Chief Executive Officer
Gary Millerchip	Senior Vice President and Chief Financial Officer
Stuart W. Aitken	Senior Vice President and Chief Merchandising & Marketing Officer
Yael Cosset	Senior Vice President and Chief Information Officer
Timothy A. Massa	Senior Vice President and Chief People Officer



Notice of 2023 Annual Meeting of Shareholders

Fellow Kroger Shareholders:

We are pleased to invite you to join us for Kroger's 2023 Annual Meeting of Shareholders on June 22, 2023 at 11:00 a.m. eastern time. The 2023 Annual Meeting of Shareholders will once again be a completely virtual meeting conducted via webcast. We believe this is the most effective approach for enabling the highest possible attendance.

You will be able to participate in the virtual meeting online, vote your shares electronically, and submit questions during the meeting by visiting www.virtualshareholdermeeting.com/KR2023.

When: June 22, 2023, at 11:00 a.m. eastern time.

Where: Webcast at www.virtualshareholdermeeting.com/KR2023

Items of Business:

1. To elect 11 director nominees
2. To approve our executive compensation, on an advisory basis.
3. To select the frequency of future advisory votes on executive compensation, on an advisory basis.
4. To ratify the selection of our independent auditor for fiscal year 2023.
5. To vote on five shareholder proposals, if properly presented at the meeting.
6. To transact other business as may properly come before the meeting.

Who can Vote: Holders of Kroger common shares at the close of business on the record date April 24, 2023 are entitled to notice of and to vote at the meeting.

How to Vote: **YOUR VOTE IS EXTREMELY IMPORTANT NO MATTER HOW MANY SHARES YOU OWN!** Please vote your proxy in one of the following ways:

1. *By the internet*, you can vote by the Internet by visiting www.proxyvote.com.
2. *By telephone*, you can vote by telephone by following the instructions on your proxy card, voting instruction form, or notice.
3. *By mail*, you can vote by mail by signing and dating your proxy card if you requested printed materials, or your voting instruction form, and returning it in the postage-paid envelope provided with this proxy statement.
4. *By mobile device*, by scanning the QR code on your proxy card, notice of internet availability of proxy materials, or voting instruction form.
5. *By attending and voting electronically* during the virtual Annual Meeting at www.virtualshareholdermeeting.com/KR2023.

Attending the Meeting: Shareholders holding shares at the close of business on the record date may attend the virtual meeting. You will be able to attend the Annual Meeting, vote and submit your questions in advance of and real-time during the meeting via a live audio webcast by visiting www.virtualshareholdermeeting.com/KR2023. To participate in the meeting, you must have your sixteen-digit control number that is shown on your Notice of Internet Availability of Proxy Materials or on your proxy card if you receive the proxy materials by mail. There is no physical location for the Annual Meeting. You may only attend the Annual Meeting virtually.

Our Board of Directors unanimously recommends that you vote "FOR ALL" of Kroger's director nominees on the proxy card, "FOR" the management proposals 2 and 4, "FOR" one year for management proposal 3, and "AGAINST" the shareholder proposals 5 through 9.

We appreciate your continued confidence in Kroger, and we look forward to your participation in our virtual meeting.

May 12, 2023
Cincinnati, Ohio

By Order of the Board of Directors,
Christine S. Wheatley, Secretary

Proxy Statement

May 12, 2023

We are providing this notice, proxy statement, and annual report to the shareholders of The Kroger Co. (“Kroger”, “we”, “us”, “our”) in connection with the solicitation of proxies by the Board of Directors of Kroger (the “Board”) for use at the Annual Meeting of Shareholders to be held on June 22, 2023 at 11:00 a.m. eastern time, and at any adjournments thereof. The Annual Meeting will be held virtually and can be accessed online at www.virtualshareholdermeeting.com/KR2023. There is no physical location for the 2023 Annual Meeting of Shareholders.

Our principal executive offices are located at 1014 Vine Street, Cincinnati, Ohio 45202-1100. Our telephone number is 513-762-4000. This notice, proxy statement, and annual report, and the accompanying proxy card are first being sent or given to shareholders on or about May 12, 2023.

Questions and Answers about the Annual Meeting

Why are you holding a virtual meeting?

We believe a virtual meeting is the most effective approach for enabling the highest possible attendance. Based on our experience with virtual meetings during the COVID-19 pandemic, we believe this facilitates shareholder attendance and participation, and has allowed a greater number of questions from a broader group of shareholders to be asked and answered at the Meeting than in an in-person format. It also reduces our costs and in a small way the carbon footprint of our activities. Therefore, our 2023 Annual Meeting is being held on a virtual-only basis with no physical location. Our goal for the Annual Meeting is to enable the broadest number of shareholders to participate in the meeting, while providing substantially the same access and exchange with Management and the Board as an in-person meeting. We believe that we are observing best practices for virtual shareholder meetings, including by providing a support line for technical assistance and addressing as many shareholder questions as time allows.

Who can vote?

You can vote if, as of the close of business on April 24, 2023, the record date, you were a shareholder of record of Kroger common shares.

Who is asking for my vote, and who pays for this proxy solicitation?

Your proxy is being solicited by Kroger’s Board of Directors. Kroger is paying the cost of solicitation. We have hired D.F. King & Co., Inc., a proxy solicitation firm, to assist us in soliciting proxies and we will pay them a fee estimated not to exceed \$17,500, plus reasonable expenses for the solicitation.

We also will reimburse banks, brokers, nominees, and other fiduciaries for postage and reasonable expenses incurred by them in forwarding the proxy material to beneficial owners of our common shares.

Proxies may be solicited personally, by telephone, electronically via the Internet, or by mail.

Who are the members of the Proxy Committee?

Anne Gates, W. Rodney McMullen, and Ronald L. Sargent, all Kroger Directors, are the members of the Proxy Committee for our 2023 Annual Meeting.

What is the difference between a “shareholder of record” and a “beneficial shareholder” of shares held in street name?

You are the “shareholder of record” for any Kroger common shares that you own directly in your name in an account with Kroger’s stock transfer agent, EQ Shareowner Services.

You are a “beneficial shareholder” of shares held in street name if your Kroger common shares are held in an account with a broker, bank, or other nominee as custodian on your behalf. The broker, bank, or other nominee is considered the shareholder of record of these shares. As the beneficial owner, you have the right to instruct the broker, bank, or other nominee on how to vote your Kroger common shares.

How do I vote my shares held in street name?

If your shares are held by a bank, broker, or other holder of record, you will receive voting instructions from the holder of record. Your broker is required to vote your shares in accordance with your instructions. In most cases, you may vote by telephone or over the internet as instructed.

How do I vote my proxy?

You can vote your proxy in one of the following ways:

1. By the internet, you can vote by the Internet by visiting www.proxyvote.com.
2. By telephone, you can vote by telephone by following the instructions on your proxy card, voting instruction form, or notice.
3. By mail, you can vote by mail by signing and dating your proxy card if you requested printed materials, or your voting instruction form, and returning it in the postage-paid envelope provided with this proxy statement.
4. By mobile device, by scanning the QR code on your proxy card, notice of internet availability of proxy materials, or voting instruction form.
5. By attending and voting electronically during the virtual Annual Meeting at www.virtualshareholdermeeting.com/KR2023

How can I participate and ask questions at the Annual Meeting?

We are committed to ensuring that our shareholders have substantially the same opportunities to participate in the virtual Annual Meeting as they would at an in-person meeting. In order to submit a question at the Annual Meeting, you will need your 16-digit control number that is printed on the Notice or proxy card that you received in the mail, or via email if you have elected to receive material electronically. You may log in 15 minutes before the start of the Annual Meeting and submit questions online. You will be able to submit questions during the Annual Meeting as well. We encourage you to submit any question that is relevant to the business of the meeting. Questions asked during the Annual Meeting will be read and addressed during the meeting. Shareholders are encouraged to log into the webcast at least 15 minutes prior to the start of the meeting to test their Internet connectivity. You may also submit questions in advance of the meeting via the internet at www.proxyvote.com when you vote your shares.

What documentation must I provide to be admitted to the virtual Annual Meeting and how do I attend?

If your shares are registered in your name, you will need to provide your sixteen-digit control number included on your Notice or your proxy card (if you receive a printed copy of the proxy materials) in order to be able to participate in the meeting. If your shares are not registered in your name (if, for instance, your shares are held in "street name" for you by your broker, bank or other institution), you must follow the instructions printed on your Voting Instruction Form. In order to participate in the Annual Meeting, please log on to www.virtualshareholdermeeting.com/KR2023 at least 15 minutes prior to the start of the Annual Meeting to provide time to register and download the required software, if needed. The webcast replay will be available at www.virtualshareholdermeeting.com/KR2023 until the 2024 Annual Meeting of Shareholders. If you access the meeting but do not enter your control number, you will be able to listen to the proceedings, but you will not be able to vote or otherwise participate.

What if I have technical or other "IT" problems logging into or participating in the Annual Meeting webcast?

We have provided a toll-free technical support "help line" that can be accessed by any shareholder who is having challenges logging into or participating in the virtual Annual Meeting. If you encounter any difficulties accessing the virtual meeting during the check-in or meeting time, please call the technical support line number that will be posted on the virtual Annual Meeting login page.

What documentation must I provide to vote online at the Annual Meeting?

If you are a shareholder of record and provide your sixteen-digit control number when you access the meeting, you may vote all shares registered in your name during the Annual Meeting webcast. If you are not a shareholder of record as to any of your shares (i.e., instead of being registered in your name, all or a portion of your shares are registered in "street name" and held by your broker, bank or other institution for your benefit), you must follow the instructions printed on your Voting Instruction Form.

How do I submit a question at the Annual Meeting?

If you would like to submit a question during the Annual Meeting, once you have logged into the webcast at www.virtualshareholdermeeting.com/KR2023, simply type your question in the “ask a question” box and click “submit”. You may also submit questions in advance of the meeting via the internet at www.proxyvote.com when you vote your shares.

When should I submit my question at the Annual Meeting?

Each year at the Annual Meeting, we hold a question-and-answer session following the formal business portion of the meeting during which shareholders may submit questions to us. We anticipate having such a question-and-answer session at the 2023 Annual Meeting. You can submit a question up to 15 minutes prior to the start of the Annual Meeting and up until the time we indicate that the question-and-answer session is concluded. However, we encourage you to submit your questions before or during the formal business portion of the meeting and our prepared statements, in advance of the question-and-answer session, in order to ensure that there is adequate time to address questions in an orderly manner. You may also submit questions in advance of the meeting via the internet at www.proxyvote.com when you vote your shares.

Can I change or revoke my proxy?

The common shares represented by each proxy will be voted in the manner you specified unless your proxy is revoked before it is exercised. You may change or revoke your proxy by providing written notice to Kroger’s Secretary at 1014 Vine Street, Cincinnati, Ohio 45202, by executing and sending us a subsequent proxy, or by voting your shares while logged in and participating in the 2023 Annual Meeting of Shareholders.

How many shares are outstanding?

As of the close of business on April 24, 2023, the record date, our outstanding voting securities consisted of 717,648,391 common shares.

How many votes per share?

Each common share outstanding on the record date will be entitled to one vote on each of the 11 director nominees and one vote on each other proposal. Shareholders may not cumulate votes in the election of directors.

What voting instructions can I provide?

You may instruct the proxies to vote “For” or “Against” each proposal (except for Proposal 3), or you may instruct the proxies to “Abstain” from voting. For Proposal 3, you may instruct the proxies to vote for “One,” “Two,” or “Three” years.

What happens if proxy cards or voting instruction forms are returned without instructions?

If you are a registered shareholder and you return your proxy card without instructions, the Proxy Committee will vote in accordance with the recommendations of the Board.

If you hold shares in street name and do not provide your broker with specific voting instructions on proposals 1, 2, 3, and 5 – 9, which are considered non-routine matters, your broker does not have the authority to vote on those proposals. This is generally referred to as a “broker non-vote.” Proposal 4, ratification of auditors, is usually considered a routine matter and, therefore, your broker may vote your shares according to your broker’s discretion.

The vote required, including the effect of broker non-votes and abstentions for each of the matters presented for shareholder vote, is set forth below.

What are the voting requirements and voting recommendation for each of the proposals?

Proposals	Board Recommendation	Voting Approval Standard	Effect of Abstention	Effect of broker non-vote
No. 1 – <u>Election of Directors</u>	FOR Each Director Nominee recommended by your Board	More votes “FOR” than “AGAINST” since it is an uncontested election	No Effect	No Effect
No. 2 <u>Advisory Vote to Approve Executive Compensation</u>	FOR	Affirmative vote of the majority of shares participating in the voting ⁽¹⁾	No Effect	No Effect
No. 3 <u>Advisory Vote on Frequency of Future Advisory Votes on Executive Compensation</u>	ONE YEAR	The option that receives the highest number of votes cast by shareholders ⁽¹⁾	No Effect	No Effect
No. 4 <u>Ratification of Independent Auditors</u>	FOR	Affirmative vote of the majority of shares participating in the voting	No Effect	No Effect
Nos. 5 – 9 <u>Shareholder Proposals</u>	AGAINST Each Proposal	Affirmative vote of the majority of shares participating in the voting	No Effect	No Effect

(1) Although this is an advisory vote, the Board will take into consideration the outcome of the vote based on this standard.

Important Notice Regarding the Availability of Proxy Materials for the Shareholder Meeting to be Held on June 22, 2023

The Notice of 2023 Annual Meeting, Proxy Statement and 2022 Annual Report and the means to vote by internet are available at www.proxyvote.com.

Kroger's Corporate Governance Practices

Kroger is committed to strong corporate governance. We believe that strong governance builds trust and promotes the long-term interests of our shareholders. Highlights of our corporate governance practices include the following:

Board Governance Practices

- ✓ Strong Board oversight of enterprise risk.
- ✓ Strong experienced independent Lead Director with clearly defined role and responsibilities.
- ✓ Commitment to Board refreshment and diversity.
- ✓ 5 of 11 director nominees are women.
- ✓ The chairs of the Audit, Finance, and Public Responsibilities Committees are women.
- ✓ Annual evaluation of the Chairman and CEO by the independent directors, led by the independent Lead Director.
- ✓ All director nominees are independent, except for the CEO.
- ✓ All five Board Committees are fully independent.
- ✓ Annual Board and Committee self-assessments conducted by independent Lead Director or an independent third party.
- ✓ Regular executive sessions of the independent directors, at the Board and Committee level.
- ✓ High degree of Board interaction with management to ensure successful oversight and succession planning.
- ✓ Balanced tenure.
- ✓ Robust shareholder engagement program.
- ✓ Robust code of ethics.

Environmental, Social, & Governance (ESG) Practices

- ✓ Long-standing Board Committee dedicated to ESG oversight — Public Responsibilities Committee — formed in 1977.
 - Amended the Committee Charter in 2021 to more specifically reflect the Committee's focused and prioritized approach to material ESG topics related to environmental issues, sustainability, and social impact
- ✓ Annual ESG report, sharing progress on our goals for Zero Hunger | Zero Waste, Just & Inclusive Economy, Food Waste, Operational Waste, Water, Packaging, Climate Impact, and Responsible Sourcing.
 - The 2022 ESG report represented the 16th year of describing our progress and initiatives regarding sustainability and other ESG matters
- ✓ Committed to transparency in our disclosure, informed by frameworks consistent with shareholder expectations:
 - SASB's Food Retailers and Distributors Standard
 - GRI Global Sustainability Reporting Standards
 - Task Force on Climate-related Financial Disclosures (TCFD) framework
- ✓ Established formal Diversity, Equity & Inclusion (DE&I) Framework for Action to:
 - Create a more inclusive culture
 - Develop diverse talent
 - Advance diverse partnerships
 - Advance equitable communities
 - Listen deeply and report progress
- ✓ Specifically include diverse candidates in every external executive officer and Board director search.
- ✓ Disclose EEO-1 data annually.

Shareholder Rights

- ✓ Annual director election.
- ✓ Simple majority standard for uncontested director elections and plurality in contested elections.
- ✓ No poison pill.
- ✓ Shareholders have the right to call a special meeting.
- ✓ Robust, long-standing shareholder engagement program with regular engagements, including with independent directors, to better understand shareholders' perspectives and concerns on a broad array of topics, such as corporate governance and ESG matters.
- ✓ Adopted proxy access for director nominees, enabling a shareholder, or group of up to 20 shareholders, holding 3% of the Company's common shares for at least three years to nominate candidates for the greater of two seats or 20% of Board nominees.

Compensation Governance

- ✓ Robust clawback and recoupment policy.
- ✓ Pay program tied to performance and business strategy.
- ✓ Majority of pay is long-term and at-risk with no guaranteed bonuses or salary increases.
- ✓ Stock ownership guidelines align executive and director interests with those of shareholders.
- ✓ Prohibition on all hedging, pledging, and short sales of Kroger securities by directors and executive officers.
- ✓ No tax gross-up payments to executives.

Environmental, Social, & Governance Strategy

Kroger's Environmental, Social & Governance Strategy is called *Thriving Together*. This strategy reflects the evolution of the Company's long history of operating responsibly, advancing economic opportunity and sustainability in our own operations and supply chain, and giving back meaningfully to our communities.

Our ESG objective is to achieve positive and lasting change through a shared-value framework that benefits people and our planet and creates more resilient systems for the future. The centerpiece of Kroger's ESG strategy is our Zero Hunger | Zero Waste social and environmental impact plan. Introduced five years ago, Zero Hunger | Zero Waste is an industry-leading platform for collective action and systems change at global, national, and local levels.

Our ESG strategy aims to address material topics of importance to our business and key stakeholders, including our associates, customers, shareholders, and others. Key ESG topics — informed by a structured materiality assessment and engagement with our shareholders and other stakeholders — align to three strategic pillars: People, Planet and Systems. Please see more details here in Kroger's annual ESG Report: <https://www.thekrogerco.com/wp-content/uploads/2022/08/Kroger-Co-2022-ESG-Report.pdf>. The information on, or accessible through, this website is not part of, or incorporated by reference into, this proxy statement.

People — Our Aspiration: Help billions live healthier, more sustainable lifestyles

Food Access, Health, & Nutrition

Kroger's brand promise, Fresh for Everyone, reflects our belief that everyone should have access to affordable, fresh food. We are committed to food and product safety and to improving food access, food security, and health and nutrition for all. Protecting our associates' and customers' health and safety and enhancing our shopping experience are also key focus areas.

- Kroger associates have rescued more than 575 million pounds of wholesome surplus food to help end hunger since introducing Zero Hunger | Zero Waste.
- In the same period, Kroger directed a total of \$1.2 billion in charitable giving for hunger relief in our communities.
- With food and funds combined, Kroger directed 2.8 billion meals to our communities since 2017, well ahead of our goal of 3 billion meals by 2025.

Just & Inclusive Economy

We offer access to employment, benefits, and more, providing good jobs for individuals ages 15 to 95 with a wide range of experience, skills, and career aspirations. In 2020, Kroger introduced our *Framework for Action: Diversity, Equity, & Inclusion*, a 10-point plan with short- and long-term steps to accelerate and promote greater change in the workplace and communities we serve.

- Since 2020, Kroger has trained 661,000 leaders and associates in diversity, equity, & inclusion, including Unconscious Bias training.
- We achieved nearly \$4 billion in diverse supplier spend annually, on track to our goal of \$10 billion annually by 2030.
- Kroger achieved a perfect score of 100 on the Human Rights Campaign Corporate Equality Index for the fourth consecutive year and was listed among the Best Places to Work for Disability Inclusion by the Disability Equality Index.
- The Kroger Co. Foundation established a \$5 million Racial Equity Fund and subsequently increased funding to \$10M to support organizations driving change at national and local levels. To date, the fund has directed a total of \$5.7 million in grants to nonprofit organizations advancing meaningful change in our communities.

Planet — Our Aspiration: Protect and restore natural resources for a brighter future

Climate Impact

Kroger is committed to reducing the impact of our business on the climate and assessing the potential future risk of a changing climate to our business operations. We support the transition to a lower-carbon economy by investing in energy efficiency and renewable energy and by reducing greenhouse gas (GHG) emissions and food waste.

- Kroger's current commitment is to reduce Scope 1 and 2 GHG emissions by 30% by 2030 using a 2018 baseline. Reflecting updated guidance from the Intergovernmental Panel on Climate Change and the Science Based Targets initiative (SBTi), Kroger is in the process of resetting this target to be more ambitious and align to a 1.5°C scenario.
- In addition, Kroger is conducting analysis to inform a new Scope 3 target to reduce GHG emissions in our value chain. We expect to complete the goal-setting process in early 2024. To align with SBTi guidance, Kroger is also setting a new Forest, Land, and Agriculture (FLAG) target to further reduce emissions in land-intensive sectors like food and agricultural production.
- Reducing food waste is another way Kroger is helping reduce climate impacts. In 2021, we reduced retail food waste generated and improved retail food waste diversion from landfill to 48.8% through our Zero Hunger | Zero Waste plan, on the path to achieving 95%+ diversion by 2025.

Resource Conservation

As a responsible business, we conserve natural resources to help safeguard people and our planet. Our current goal is to divert 90% or more of waste from landfills company-wide by 2025 and to identify alternative methods of waste management.

- We have a comprehensive set of sustainable packaging goals that include seeking to achieve 100% recyclable, reusable, or compostable packaging for *Our Brands* products by 2030. In 2022, we completed an *Our Brands* packaging footprint and baseline to inform our roadmap to 2030.
- Kroger partnered with TerraCycle to launch a first-of-its-kind recycling program for flexible plastic packaging across the *Our Brands* portfolio. Now, Kroger customers can collect flexible snack and chip bags, pouches, pet food packaging, and more — items typically not eligible for curbside recycling — for easy and free mail-in recycling.
- In 2022, Kroger also conducted a six-month pilot with the innovative Loop reusable consumer product packaging platform at 25 Fred Meyer stores in the Portland, Oregon, area. We plan to publish a report outlining what may be needed to achieve commercial scale with reusable packaging in the future.
- To support more sustainable agriculture, Kroger offers an expanding selection of natural, organic, free-from, and plant-based products, including our popular Simple Truth® product line. The company also is in the process of developing a sustainable agriculture commitment for its fresh produce supply chain.

Systems — Our Aspiration: Build more responsible and inclusive global systems

Business Integration

Kroger is committed to strong corporate and ESG governance. Business and functional leaders are engaged in our ESG strategy and accountable for results. Operationalizing ESG is a journey; however, we believe our centralized structure, vertical integration and commitment to responsible sourcing enables our progress.

- We are committed to Board refreshment and diversity, with five of 11 directors being women, including the chairs of the Audit, Finance, and Public Responsibilities Committees.
- The Public Responsibilities Committee meets three times a year to discuss progress related to the company's ESG strategy and key topics. In 2022, areas of focused engagement included Kroger's GHG emissions reduction roadmap and approach to responsible sourcing.
- A core ESG team leads internal cross-functional working groups focused on policy, issues management and strategy implementation for key ESG topics, including food and product access and affordability, climate impacts, sustainable packaging, and supply chain accountability.

Responsible & Resilient Systems

Kroger is part of – and dependent on – an interconnected global food system and consumer goods supply chain. A renewed focus on these natural systems and the policies and practices governing them will help protect our planet and workers whose livelihoods depend on a resilient and responsible supply chain.

- Kroger continues to advance its commitment to align our human rights practice with the UN Guiding Principles on Business and Human Rights and develop a comprehensive human rights due diligence framework. In the past year, Kroger conducted two human rights impact assessments in different sectors of our global supply chain.
- We continue to offer a wide assortment of Fair Trade Certified products in the *Our Brands* assortment to support communities around the world.
- Kroger continues to transition the foundation of our animal welfare policy to the Five Domains of Animal Welfare, an internationally respected approach that emphasizes current animal science and outcome-based standards. We are working with our suppliers to measure and report progress toward our goals.
- Our long-standing commitment to seafood sustainability includes partnerships and programs aimed at improving marine ecosystems through conservation and fishery improvement practices.
- Kroger's No-Deforestation Commitment for *Our Brands* aims to address deforestation impacts in higher-risk supply chains, such as palm oil, pulp and paper, soy, and beef.

Proposals to Shareholders

Item No. 1. Election of Directors

You are being asked to elect 11 director nominees for a one-year term.

FOR	The Board of Directors unanimously recommends that you vote "FOR ALL" of Kroger's director nominees.
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Name	Age*	Primary Occupation	Independent	Director Since	Standing Committee Membership					Other Public Company Boards
					A	C&T	CG	F	PR	
Nora A. Aufreiter	63	Director Emeritus of McKinsey & Company	✓	2014				●	☒	2
Kevin M. Brown	60	Executive Vice President and Chief Supply Chain Officer of Dell Technologies	✓	2021	●				●	
Elaine L. Chao	70	Former U.S. Secretary of Transportation and U.S. Secretary of Labor	✓	2021			●		●	2
Anne Gates	63	Former President of MGA Entertainment, Inc.	✓	2015	☒		●			2
Karen M. Hoguet	66	Former Chief Financial Officer of Macy's, Inc.	✓	2019	☒				☒	
W. Rodney McMullen	62	Chairman of the Board and Chief Executive Officer of The Kroger Co.		2003						1
Clyde R. Moore	69	Former Chairman of First Service Networks	✓	1997	☒	●				
Ronald L. Sargent †	67	Former Chairman and Chief Executive Officer of Staples, Inc.	✓	2006	☒	☒		●		2
J. Amanda Sourry Knox (Amanda Sourry)	59	Former President of North America for Unilever	✓	2021		●	●			1
Mark S. Sutton	61	Chairman and Chief Executive Officer of International Paper	✓	2017	●		●			1
Ashok Vemuri	55	Former Chief Executive Officer and Director of Conduent Incorporated	✓	2019	☒		●			1

A Audit Committee

● Member

*Age as of record date

C&T Compensation & Talent Development Committee

☒ Committee Chair

† Lead Director

CG Corporate Governance Committee

\$ Financial Expert

F Finance Committee

PR Public Responsibilities Committee

As of the date of this proxy statement, Kroger's Board of Directors consists of 11 members. All nominees, if elected at the 2023 Annual Meeting, will serve until the annual meeting in 2024 or until his or her successors have been elected by the shareholders or by the Board pursuant to Kroger's Regulations, and qualified. Each of our director nominees identified in this proxy statement has consented to being named as a nominee in our proxy materials and has accepted the nomination and agreed to serve as a director if elected by Kroger's shareholders.

Kroger's Articles of Incorporation provide that the vote required for election of a director nominee by the shareholders, except in a contested election or when cumulative voting is in effect, is the affirmative vote of a majority of the votes cast for or against the election of a nominee.

The Committee memberships stated below are those in effect as of the date of this proxy statement. The experience, qualifications, attributes, and skills that led the Corporate Governance Committee and the Board to conclude that the following individuals should serve as directors are set forth opposite each individual's name. In addition, all of our Director Nominees demonstrate the following qualities:

Key Attributes and Skills of All Kroger Director Nominees

- Intellectual and analytical skills
- High integrity and business ethics
- Strength of character and judgement
- Ability to devote significant time to Board duties
- Desire and ability to continually build expertise in emerging areas of strategic focus for our Company
- Demonstrated focus on promoting equality
- Business and professional achievements
- Ability to represent the interests of all shareholders
- Knowledge of corporate governance matters
- Understanding of the advisory and proactive oversight responsibility of our Board
- Comprehension of their his or her as a public company director and the fiduciary duties owed to shareholders
- Ability to work cooperatively with other members of the board

Board Nominees for Directors for Terms of Office Continuing until 2024



Nora A. Aufreiter

Ms. Aufreiter is Director Emeritus of McKinsey & Company, a global management consulting firm. She retired in June 2014 after more than 27 years with McKinsey, most recently as a director and senior partner. During that time, she worked extensively in the U.S., Canada, and internationally with major retailers, financial institutions, and other consumer-facing companies. Before joining McKinsey, Ms. Aufreiter spent three years in financial services working in corporate finance and investment banking. She is a member of the Board of Directors of The Bank of Nova Scotia and is chair of the Board of Directors of MYT Netherlands Parent B.V., the parent company of MyTheresa.com, an e-commerce retailer. She is also on the board of a privately held company, Cadillac Fairview, a subsidiary of Ontario Teachers Pension Plan, which is one of North America's largest owners, operators, and developers of commercial real estate. Ms. Aufreiter also serves on the boards of St. Michael's Hospital and the Canadian Opera Company, and is a member of the Dean's Advisory Board for the Ivey Business School in Ontario, Canada.

Age 63 Director Since 2014

Committees:

Finance
Public Responsibilities¹

Qualifications:

Business Management
Retail
Consumer
Financial Expertise
Operations & Technology
ESG

Ms. Aufreiter has over 30 years of broad business experience in a variety of retail sectors. Her vast experience in leading McKinsey's North American Retail Practice, North American Branding service line and the Consumer Digital and Omnichannel service line is of particular value to the Board. In addition, during her tenure with McKinsey, the firm advised consulting clients on a variety of matters, including ESG topics and setting and achieving sustainability goals which is of value to the Board and the Public Responsibilities Committee. Ms. Aufreiter has served on our Public Responsibilities Committee for eight years, the last three as chair. In 2021, she led the Board's review of ESG accountability to clarify committee oversight of ESG topics and led the revision of the Committee's charter to reflect the Committee's increasing focus on material environmental sustainability and social impact topics. She also brings to the Board valuable insight on commercial real estate. In her current role as Chair of the Human Capital and Compensation Committee for the Bank of Nova Scotia, Ms. Aufreiter has responsibility for overseeing senior management succession and CEO evaluation and incentive compensation. In her previous role as Chair of the Corporate Governance Committee of The Bank of Nova Scotia, Ms. Aufreiter had responsibility for overseeing shareholder engagement, the composition of its Board of Directors, including diversity, the effectiveness of the diversity policy of its Board of Directors, ESG strategy and priorities, and the Bank's statement on human rights. This experience is of particular value to the Board and to her role as the Chair of the Public Responsibilities Committee.

¹Denotes Chair of Committee



Kevin M. Brown

Mr. Brown is the Executive Vice President and Chief Supply Chain Officer at Dell Technologies, a leading global technology company. His previous roles at Dell include senior leadership roles in procurement, product quality, and manufacturing. Mr. Brown joined Dell in 1998 and has held roles of increasing responsibility throughout his career, including Chief Procurement Officer and Vice President, ODM Fulfillment & Supply Chain Strategy before being named Chief Supply Chain Officer in 2013. Before Dell, he spent 10 years in the shipbuilding industry, directing U.S. Department of Defense projects.

Mr. Brown currently serves on the National Committee of the Council on Foreign Relations and on the Boards of the Congressional Black Caucus Foundation and the Howard University Center for Supply Chain Excellence. He is also a member of the Executive Leadership Council.

Age 60 Director Since 2021

Committees:

Audit
Public Responsibilities

Qualifications:

Business Management
Consumer
Financial Expertise
Risk Management
Operations & Technology
ESG
Manufacturing

Mr. Brown is a global leader with over twenty years of leadership experience and supply chain innovation experience. His efforts led Dell to be recognized as having one of the most efficient, sustainable, and innovative supply chains. Mr. Brown has established himself as an authority on sustainable business practices. His combined deep global supply chain and procurement expertise and track record of sustainability and resilience leadership, as well as his experience in circular economic business practices, are of value to the Board in his role as director and member of the Public Responsibilities Committee. His deep expertise in all matters related to supply chain, supply chain resilience, and risk and crisis management are of particular value to the Board.



Elaine L. Chao

Ms. Chao served as the 18th U.S. Secretary of Transportation from January 2017 until January 2021. Prior thereto, she served as the 24th U.S. Secretary of Labor from January 2001 until January 2009, and was the first woman of Asian American & Pacific Islander heritage to serve in a President's cabinet in history. Previously, Ms. Chao was President and CEO of United Way of America, Director of the Peace Corps and a banker with Citicorp and BankAmerica Capital Markets Group. She earned her M.B.A. from Harvard Business School and has served on a number of Fortune 500 and nonprofit boards. She currently serves on the Board of Directors of ChargePoint Holdings, Inc. and Embark Technology, Inc., both of which are new economy technology companies in the mobile sector focusing on sustainable and environmentally friendly transportation. In the past five years, she also served as a director of and Hyliion Holdings Corp. Recognized for her extensive record of accomplishments and public service, she is also the recipient of 38 honorary doctorate degrees. In her capacity as a director on numerous public boards while out of government, she has advocated for innovation and business transformations. She has also been a director on many private and nonprofit boards, including Harvard Business School Board of Dean's Advisors and Global Advisory Board, Los Angeles Organizing Committee for the Olympic and Paralympic Games 2028, and a trustee of the Kennedy Center for the Performing Arts.

Age 70 Director Since 2021

Committees:
Corporate Governance
Public Responsibilities

Qualifications:
Business Management
Consumer
Financial Expertise
Risk Management
Operations & Technology
ESG

Ms. Chao brings to the Board extensive experience in the public, private and non-profit sectors. In her two cabinet positions, she led high-profile organizations, navigating complex regulatory and public policy environments, and she provides the Board with valuable insight on strategy, logistics, transportation, and workforce issues. Under her leadership, the Department of Labor set up a record number of health and safety partnerships with labor unions. While she was Director of the Peace Corps, she launched the first Peace Corps programs in the newly independent Baltic states and the former republics of the former Soviet Union, including Ukraine. This experience leading social impact at scale is of value to the Board in her role as an independent director and member of the Public Responsibilities Committee. Ms. Chao's leadership and governance expertise gained from her government service, nonprofits, and public company boards is of value to the Board.



Anne Gates

Ms. Gates was President of MGA Entertainment, Inc., a privately-held developer, manufacturer, and marketer of toy and entertainment products for children, from 2014 until her retirement in 2017. Ms. Gates held roles of increasing responsibility with The Walt Disney Company from 1992-2012. Her roles included Chief Financial Officer for Disney Consumer Products (DCP) and Managing Director, DCP, Europe and emerging markets. She is currently a director of Tapestry, Inc., where she serves as Chair of the Board, Chair of the Governance Committee, and is on the Tapestry Foundation Board. She is also a director of Raymond James Financial, Inc., where she is the Chair of the Corporate Governance ESG Committee. She is also a member of the Boards of the Salzburg Global Seminar, PBS SoCal, Save the Children, and the Packard Foundation, one of the largest global foundations focused on environmental and other key ESG issues.

Ms. Gates has over 25 years of experience in the retail and consumer products industry. She brings to Kroger financial expertise gained while serving as President of MGA and CFO of a division of The Walt Disney Company.

President of MCA and CEO of a division of The Walt Disney Company. Ms. Gates has a broad business background in finance, marketing, strategy and business development, including international business. As the chair of the Corporate Governance and ESG Committee at Raymond James Financial, Inc., she oversees their code of ethics, Board composition, including diversity, environmental policies and programs, sustainability targets and ESG reporting which are aligned with SASB, shareholder proposals, and shareholder engagements efforts, including social justice, community relations and charitable giving. Ms. Gates is also Chair of the Tapestry Governance Committee, which also includes oversight of ESG responsibilities. These experiences are of particular value to the Board in her role as an independent director and member of the Corporate Governance Committee. Her financial leadership and consumer products expertise is of particular value to the Board. Ms. Gates has been designated an Audit Committee financial expert and serves as Chair of the Audit Committee.

Age 63 Director Since 2015

Committees:

Audit¹ Corporate Governance

Qualifications:

Business Management
Retail
Consumer
Financial Expertise
Risk Management
Operations & Technology
ESG
Manufacturing

¹ Denotes Chair of Committee



Karen M. Hoguet

Ms. Hoguet served as the Chief Financial Officer of Macy's, Inc. from October 1997 until July of 2018 when she became a strategic advisor to the Chief Executive Officer until her retirement in 2019. Previously, she served on the boards of Nielsen Holdings plc, The Chubb Corporation and Cincinnati Bell as the chairman of the audit committee and a member of the finance committee, member of the Audit and Finance Committee and the Audit Committee, respectively. She also serves on the board of UCHealth.

Age 66 Director Since 2019

Committees:

Audit
Finance¹

Qualifications:

Business Management
Retail
Consumer
Financial Expertise
Risk Management
ESG

Ms. Hoguet has over 35 years of broad financial and operational leadership experience within the omnichannel retail sector. She has a proven track record of success in driving transformations, delivering strong financial performance, and forming strong relationships with investors and industry analysts. She has extensive knowledge across all areas of finance, including financial planning, investor relations, M&A, accounting, treasury and tax, as well as strategic planning, credit card services and real estate. Ms. Hoguet played a critical role in the successful turnaround of Federated Department Stores, from bankruptcy to an industry leading omnichannel retailer, which was accomplished through acquisitions, divestiture and other strategic changes including building an omnichannel model and developing a new strategic approach to real estate. Her long tenure as a senior executive of a publicly traded company with financial, audit, strategy, and risk oversight experience is of value to the Board as is her public company experience, both as a long serving executive, and as a board member. In addition, her strong business acumen, understanding of diverse cross-functional issues, and ability to identify potential risks and opportunities are also of value to the Board. Ms. Hoguet has been designated an Audit Committee financial expert and serves as Chair of the Finance Committee.



W. Rodney McMullen

Mr. McMullen was elected Chairman of the Board in January 2015 and Chief Executive Officer of Kroger in January 2014. He served as Kroger's President and Chief Operating Officer from August 2009 to December 2013. Prior to that, Mr. McMullen was elected to various roles at Kroger including Vice Chairman in 2003, Executive Vice President, Strategy, Planning, and Finance in 1999, Senior Vice President in 1997, Group Vice President and Chief Financial Officer in June 1995, and Vice President, Planning and Capital Management in 1989. He is a director of VF Corporation. In the past five years, he also served as a director of Cincinnati Financial Corporation.

Age 62 Director Since 2003

Qualifications:

Business Management
Retail
Consumer
Financial Expertise
Risk Management
Operations & Technology
ESG

Mr. McMullen has broad experience in the supermarket business, having spent his career spanning over 40 years with Kroger. He has a strong background in finance, operations, and strategic partnerships, having served in a variety of roles with Kroger, including as our CFO, COO, and Vice Chairman. His previous service as chair of Cincinnati Financial Corporation's Compensation Committee and on its Executive and Investment Committees, as well as his service on the Audit and Governance and Corporate Responsibilities Committees of VF Corporation, adds depth to his extensive retail experience.

¹ Denotes Chair of Committee



Clyde R. Moore

Mr. Moore was Chairman and Chief Executive Officer of First Service Networks, a national provider of facility and maintenance repair services, from 2000 to 2014, and Chairman until his retirement in 2015. Previously, Mr. Moore was President and CEO of Thomas & Betts, a global manufacturer of electric connectors and components, and President and COO of FL Industries, Inc., an electrical component manufacturing company. Mr. Moore is currently President and CEO of Gliocas LLC, a management consulting firm serving small businesses and non-profits. Mr. Moore was a leader in the founding of the Industry Data Exchange Association (IDEA), which standardized product identification data for the electrical industry, allowing the industry to make the successful transition to digital commerce. Mr. Moore was Chairman of the National Electric Manufacturers Association and served on the Executive Committee of the Board of Governors. He served on the advisory board of Mayer Electrical Supply for over 20 years, including time as lead director, until the sale of the company in late-2021.

Mr. Moore has over 30 years of general management experience in public and private companies. He has extensive experience as a corporate leader overseeing all aspects of a facilities management firm and numerous manufacturing companies. Mr. Moore's expertise broadens the scope of the Board's experience to provide oversight to Kroger's facilities, digital, and manufacturing businesses, and he has a wealth of Fortune 500 experience in implementing technology transformations. Additionally, his expertise and leadership as Chair of the Compensation Committee is of particular value to the Board. Mr. Moore presided over the Compensation Committee during the company's introduction of its Framework for Action: Diversity, Equity, & Inclusion plan. Additionally, he was Chair of the Compensation Committee and led the inclusion of talent development into the Committee's name and charter.



Ronald L. Sargent

Mr. Sargent was Chairman and Chief Executive Officer of Staples, Inc., a business products retailer, where he was employed from 1989 until his retirement in 2017. Prior to joining Staples, Mr. Sargent spent 10 years with Kroger in various positions. He is a director of Five Below, Inc. and Wells Fargo & Company. Previously, he served as a director of The Home Depot, Inc. and Mattel, Inc. Currently, Mr. Sargent is a member of the board of governors of the Boys & Girls Clubs of America, the board of directors of City of Hope, and the board of trustees of Northeastern University. He is also chairman of the board of directors of the John F. Kennedy Library Foundation.

Mr. Sargent has over 35 years of retail experience, first with Kroger and then with increasing levels of responsibility and leadership at Staples, Inc. His efforts helped carve out a new market niche for the international retailer. In his role as Chair of the Wells Fargo Human Resources Committee, he oversees human capital management, including diversity, equity, and inclusion, human capital risk, and culture and ethics. In his role as a member of the Five Below Nominating and Corporate Governance Committee, he oversees social and environmental governance, including corporate citizenship. These committee experiences are of value to the Board in his role as a member of the Public Responsibilities Committee and Lead Director of the Board. His understanding of retail operations, consumer insights, and e-commerce are also of value to the Board. Mr. Sargent has been designated an Audit Committee financial expert and serves as Chair of the Corporate Governance Committee and Lead Director of the Board. Mr. Sargent's strong insights into corporate governance and his executive leadership experience serve as the basis for his leadership role as Lead Director.

Age 67 Director Since 2006

Committees:
Audit
Corporate Governance¹
Public Responsibilities

Qualifications:
Business Management
Retail
Consumer
Financial Expertise
Risk Management
Operations & Technology
ESG

¹ Denotes Chair of Committee



Age 59 Director Since 2021

Committees:
Compensation & Talent
Development
Finance

Qualifications:
Business Management
Retail
Consumer
Financial Expertise
Risk Management
Operations & Technology
ESG

J. Amanda Sourry Knox (Amanda Sourry)

Ms. Sourry was President of North America for Unilever, a personal care, foods, refreshment, and home care consumer products company, from 2018 until her retirement in December 2019. She held leadership roles of increasing responsibility during her more than 30 years at Unilever, both in the U.S. and Europe, including president of global foods, executive vice president of global hair care, and executive vice president of the firm's UK and Ireland business. From 2015 to 2017, she served as President of their Global Foods Category. Ms. Sourry currently serves on the board for PVH Corp., where she chairs the Compensation Committee and serves on the Nominating, Governance & Management Development Committee. She is also a non-executive director of OFI, a provider of on-trend, natural and plant-based products, focused on delivering sustainable and innovative solutions to consumers across the world, and a member of their Remuneration and Talent Committee and the Audit and Risk Committee. She is also a supervisory director of Trivium Packaging B.V., a sustainable packaging company, and a director of Beautycounter LLC.

Ms. Sourry has over thirty years of experience in the CPG and retail industry. As a member of PVH Corp.'s Nominating, Governance, & Management Development Committee, her experience with monitoring issues of corporate conduct and culture, and providing oversight of diversity, equity and inclusion policies and programs as it relates to management development, talent assessment and succession planning programs and processes is of particular value to her role as a member of the Compensation & Talent Development Committee and the Board. She brings to the Board her extensive global marketing and business experience in consumer-packaged goods as well as customer development, including overseeing Unilever's digital efforts. Ms. Sourry was actively involved in Unilever's global diversity, gender balance, and sustainable living initiatives which is of value to the Board and to the Compensation & Talent Development Committee. She also has a track record of driving sustainable, profitable growth across scale operating companies and global categories across both developed and emerging markets. Ms. Sourry's history in profit and loss responsibility and oversight, people and ESG leadership and capabilities development is of value to the Board.



Mark S. Sutton

Mr. Sutton is Chairman and Chief Executive Officer of International Paper, a leading global producer of renewable fiber-based packaging, pulp, and paper products. Prior to becoming CEO in 2014, he served as President and Chief Operating Officer with responsibility for running International Paper's global business. Mr. Sutton joined International Paper in 1984 as an Electrical Engineer. He held roles of increasing responsibility throughout his career, including Mill Manager, Vice President of Corrugated Packaging Operations across Europe, the Middle East and Africa, Vice President of Corporate Strategic Planning, and Senior Vice President of several business units, including global supply chain. Mr. Sutton is a member of The Business Council, serves on the American Forest & Paper Association board of directors, and on the Business Roundtable. He also serves on the board of directors of Memphis Tomorrow.

Age 61 Director Since 2017

Committees:

Compensation & Talent Development
Finance

Qualifications:

Business Management
Financial Expertise
Risk Management
Operations & Technology
ESG
Manufacturing

Mr. Sutton has over 30 years of leadership experience with increasing levels of responsibility and leadership at International Paper. At International Paper, he oversees their robust ESG disclosures which are aligned with GRI, and their Vision 2030, which sets forth ambitious forest stewardship targets and plans to transition to renewable solutions and sustainable operations. He also oversees International Paper's Vision 2030 goals pertaining to diversity and inclusion. He brings to the Board the critical thinking that comes with an electrical engineering background as well as his experience leading a global company with labor unions. His strong strategic planning background, manufacturing and supply chain and experience, and his ESG leadership are of value to the Board.



Ashok Vemuri

Mr. Vemuri was Chief Executive Officer and a Director of Conduent Incorporated, a global digital interactions company, from its inception as a result of the spin-off from Xerox Corporation in January 2017 to 2019. He previously served as Chief Executive Officer of Xerox Business Services, LLC and as an Executive Vice President of Xerox Corporation from July 2017 to December 2017. Prior to that, he was President, Chief Executive Officer, and a member of the Board of Directors of IGATE Corporation, a New Jersey-based global technology and services company now part of Capgemini, from 2013 to 2015. Before joining IGATE, Mr. Vemuri spent 14 years at Infosys Limited, a multinational consulting and technology services company, in a variety of leadership and business development roles and served on the board of Infosys from 2011 to 2013. Prior to joining Infosys in 1999, Mr. Vemuri worked in the investment banking industry at Deutsche Bank and Bank of America. In the past five years, he served as a director of Conduent Incorporated. Mr. Vemuri is a member of the Board of Directors of Opal Fuels and is chair of the Audit Committee.

Age 55 Director Since 2019

Committees:
Audit
Finance**Qualifications:**
Business Management
Financial Expertise
Risk Management
Operations & Technology
ESG

Mr. Vemuri brings to the Board a proven track record of leading technology services companies through growth and corporate transformations. His experience as CEO of global technology companies as well as his experience with cyber security and risk oversight are of value to the Board as he brings a unique operational, financial, and client experience perspective. Additionally, Mr. Vemuri served on our Public Responsibilities Committee which gives him additional perspectives on risk oversight that he brings to the Audit Committee. Mr. Vemuri has been designated an Audit Committee financial expert.

YOUR VOTE IS EXTREMELY IMPORTANT. The Board of Directors unanimously recommends a vote “FOR ALL” of Kroger’s director nominees.

Board Succession Planning and Refreshment Mechanisms

Board succession planning is an ongoing, year-round process. The Corporate Governance Committee recognizes the importance of thoughtful Board refreshment and engages in a continuing process of identifying attributes sought for future Board members. The Corporate Governance Committee takes into account the Board and Committee evaluations regarding the specific qualities, skills, and experiences that would contribute to overall Board and Committee effectiveness, as well as the future needs of the Board and its Committees in light of Kroger’s current and long-term business strategies, and the skills and qualifications of directors who are expected to retire in the future including as a result of our Board retirement policy, which requires directors to retire at the annual meeting following their 72nd birthday.

Outside Board Service

No director who is an officer of the Company may serve as a director of another company without the approval of the Corporate Governance Committee. Directors who are not officers of the Company may not serve as a director of another company if in so doing such service would interfere with the director’s ability to properly perform his or her responsibilities on behalf of the Company and its shareholders, as determined by the Corporate Governance Committee. None of our current directors serve on more than three public company Boards, including Kroger’s Board.

Board Diversity

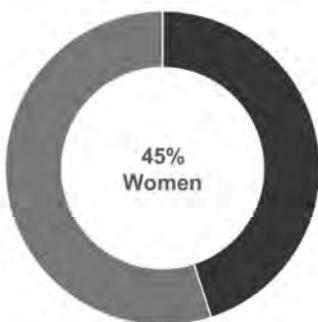
Our director nominees reflect a wide array of experience, skills, and backgrounds. Each director is individually qualified to make unique and substantial contributions to Kroger. Collectively, our directors’ diverse viewpoints and independent-mindedness enhance the quality and effectiveness of Board deliberations and decision-making. Our Board is a dynamic group of new and experienced members, which reflects an appropriate balance of institutional knowledge and fresh perspectives about Kroger due to the varied length of tenure on the Board. We believe this blend of qualifications, attributes, and tenure enables highly effective Board leadership.

The Corporate Governance Committee considers racial, ethnic, and gender diversity to be important elements in promoting full, open, and balanced deliberations of issues presented to the Board. When evaluating potential nominees to our Board, the Corporate Governance Committee considers director candidates who would help the Board reflect the diversity of our shareholders, associates, customers, and the communities in which we operate, including by considering their geographic locations to align directors’ physical locations with Kroger’s operating areas where possible. In connection with the use of a third-party search firm to identify candidates for Board positions, the Corporate Governance Committee instructs the third-party search firm to include in its initial list qualified female and racially/ethnically diverse candidates. Four of our 11 director nominees self-identify as racially/ethnically diverse: Mr. Brown and Ms. Gates self-identify as Black/African American and Ms. Chao and Mr. Vemuri self-identify as Asian. Five of our 11 directors are women.

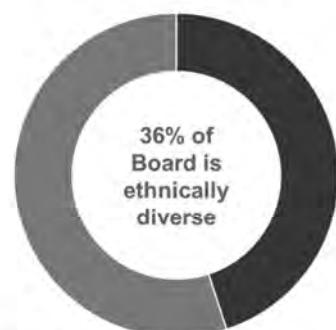
The Corporate Governance Committee believes that it has been successful in its efforts to promote gender and ethnic diversity on our Board. Further, the Board aims to foster a diverse and inclusive culture throughout the Company and believes that the Board nominees are well suited to do so. The Corporate Governance Committee and Board believe that our director nominees for election at our 2023 Annual Meeting bring to our Board a variety of different experiences, skills, and qualifications that contribute to a well-functioning diverse Board that effectively oversees the Company’s strategy and management. The charts below show the diversity of our director nominees and the skills and experience that we consider important for our directors in light of our current business, strategy, and structure:

	Nora Aufreiter	Kevin Brown	Elaine Chao	Anne Gates	Karen Hoguet	Rodney McMullen	Clyde Moore	Ronald Sargent	Amanda Sourry	Mark Sutton	Ashok Vemuri	Total (of 11)
Business Management	•	•	•	•	•	•	•	•	•	•	•	11
Retail	•			•	•	•		•	•			6
Consumer	•	•	•	•	•	•		•	•			8
Financial Expertise	•	•	•	•	•	•	•	•	•	•	•	11
Risk Management		•	•	•	•	•	•	•	•	•	•	10
Operations & Technology	•	•	•	•		•	•	•	•	•	•	10
ESG	•	•	•	•	•	•	•	•	•	•	•	11
Manufacturing		•		•			•			•		4

Gender Diversity



Ethnic Diversity



Tenure of Director Nominees



Average Tenure is 8.9 years

Information Concerning the Board of Directors

Board Leadership Structure and Independent Lead Director

Kroger has a governance structure in which independent directors exercise meaningful and rigorous oversight. The Board's leadership structure, in particular, is designed with those principles in mind and to allow the Board to evaluate its needs and determine, from time to time, who should lead the Board. Our Corporate Governance Guidelines (the "*Guidelines*") provide the flexibility for the Board to modify our leadership structure in the future as appropriate. We believe that Kroger is well-served by this flexible leadership structure.

In order to promote thoughtful oversight, independence, and overall effectiveness, the Board's leadership includes Mr. McMullen, our Chairman and CEO, and an independent Lead Director designated by the Board among the independent directors. The Lead Director works with the Chairman to share governance responsibilities, facilitate the development of Kroger's strategy, and grow shareholder value. The Lead Director serves a variety of roles, consistent with current best practices, including:

- reviewing and approving Board meeting agendas, materials, and schedules to confirm that the appropriate topics are reviewed, with sufficient information provided to directors on each topic and appropriate time is allocated to each;
- serving as the principal liaison between the Chairman, management, and the independent directors;
- presiding at the executive sessions of independent directors and at all other meetings of the Board at which the Chairman is not present;
- calling meetings of independent directors at any time; and
- serving as the Board's representative for any consultation and direct communication, following a request, with major shareholders.

The independent Lead Director carries out these responsibilities in numerous ways, including by:

- facilitating communication and collegiality among the Board members;
- soliciting direct feedback from independent directors;
- overseeing the succession planning process, including meeting with a wide range of associates including corporate and division management associates;
- meeting with the CEO frequently to discuss strategy;
- serving as a sounding Board and advisor to the CEO;
- leading annual CEO evaluation process; and
- discussing Company matters with other directors between meetings.

Unless otherwise determined by the independent members of the Board, the Chair of the Corporate Governance Committee is designated as the Lead Director. Ronald L. Sargent, an independent director and the Chair of the Corporate Governance Committee, was appointed as our Board's independent Lead Director in June 2018.

Mr. Sargent is an effective Lead Director for Kroger due to, among other things, his:

- independence;
- deep strategic and operational understanding of Kroger obtained while serving as a Kroger director;
- insight into corporate governance;
- experience as the CEO of an international ecommerce and brick and mortar retailer;
- experience on the Boards of other large publicly traded companies; and
- engagement and commitment to carrying out the role and responsibilities of the Lead Director.

With respect to the roles of Chairman and CEO, the *Guidelines* provide that the Board will determine whether it is in the best interests of Kroger and its shareholders for the roles to be combined. The Board exercises this judgment as it deems appropriate in light of prevailing circumstances. The Board believes that this leadership structure improves the Board's ability to focus on key policy and operational issues and helps the Company operate in the long-term interest of shareholders. Additionally, this structure provides an effective balance between strong Company leadership and appropriate safeguards and oversight by independent directors. Our CEO's strong background in finance, operations, and strategic partnerships is particularly important to the Board given Kroger's current growth strategy. Our CEO's consistent leadership, deep industry expertise, and extensive knowledge of the Company are also especially critical in the midst of the rapidly evolving retail and digital landscape. The Board believes that the structure of the Chairman and independent Lead Director position should continue to be considered as part of the succession planning process.

Annual Board Evaluation Process

The Board and each of its Committees conduct an annual evaluation to determine whether the Board is functioning effectively both at the Board and at the Committee levels. As part of this annual evaluation, the Board assesses whether the current leadership structure and function continues to be appropriate for Kroger and its shareholders, including in consideration of director succession planning.

Every year, the Board's goal is to increase the effectiveness of the Board and the results of these evaluations are used for this purpose. The Board recognizes that a robust evaluation process is an essential component of strong corporate governance practices and ensuring Board effectiveness. The Corporate Governance Committee oversees an annual evaluation process led by either the Lead Independent Director or an independent third party.

Each director completes a detailed annual evaluation of the Board and the Committees on which he or she serves and the Lead Director or an independent third-party conducts interviews with each of the directors. This year, the annual evaluation was conducted by the Lead Director.

Topics covered include, among others:

- The effectiveness of the Board and Board Committees and the active participation of all directors
- The Board and Committees' skills and experience and whether additional skills or experience are needed
- The effectiveness of Board and Committee meetings, including the frequency of the meetings
- Board interaction with management, including the level of access to management, and the responsiveness of management
- The effectiveness of the Board's evaluation of management performance
- Additional subject matters the Board would like to see presented at their meetings or Committee meetings
- Board's governance procedures
- The culture of the Board to promote participation in a meaningful and constructive way

The results of this Board evaluation are discussed by the full Board and each Committee, as applicable, and changes to the Board's and its Committees' practices are implemented as appropriate.

Over the past several years, this evaluation process has contributed to various enhancements in the way the Board and the Committees operate, including increased focus on continuous Board refreshment and diversity of its members as well as ensuring that Board and Committee agendas are appropriately focused on strategic priorities and provide adequate time for director discussion and input.

Director Onboarding and Engagement

All directors are expected to invest the time and energy required to gain an in-depth understanding of our business and operations in order to enhance their strategic value to our Board. We develop tailored onboarding plans for each new director. We arrange meetings for each new director with appropriate officers and associates in order to familiarize him or her with the Company's strategic plans, financial statements, and key policies and practices. We also provide training on fiduciary obligations of board members and corporate governance topics, as well as committee-specific onboarding. From time to time, the Company will provide Board members with presentations from experts within and outside of the Company on topics relevant to the Board's responsibilities. Any member of the Board may attend accredited third-party training and the expenses will be paid by the Company. Board meetings are periodically held at a location away from our home office in a geography in which we operate. In connection with these Board meetings, our directors learn more about the local business environment through meetings with our regional business leaders and visits to our stores, competitors' stores, manufacturing facilities, distribution facilities, and/or customer fulfillment centers.

Committees of the Board of Directors

To assist the Board in undertaking its responsibilities, and to allow deeper engagement in certain areas of company oversight, the Board has established five standing Committees: Audit, Compensation and Talent Development ("Compensation"), Corporate Governance, Finance, and Public Responsibilities. All Committees are composed exclusively of independent directors, as determined under the NYSE listing standards. Each Committee has the responsibilities set forth in its respective charter, each of which has been approved by the Board. The current charter of each Board Committee is available on our website at ir.kroger.com under Investors — Governance — Corporate Governance Guidelines.

The current membership, 2022 meetings, and responsibilities of each Committee are summarized below.

Name of Committee, Number of Meetings, and Current Members	Primary Committee Responsibilities
Audit Committee Meetings in 2022: 5 Members: Anne Gates, <i>Chair</i> Kevin M. Brown Karen M. Hoguet Ronald L. Sargent Ashok Vemuri	<ul style="list-style-type: none">Oversees the Company's financial reporting and accounting matters, including review of the Company's financial statements and the audit thereof, the Company's financial reporting and accounting process, and the Company's systems of internal control over financial reportingSelects, evaluates, and oversees the compensation and work of the independent registered public accounting firm and reviews its performance, qualifications, and independenceOversees and evaluates the Company's internal audit function, including review of its audit plan, policies and procedures, and significant findingsOversees enterprise risk assessment and risk management, including review of cybersecurity risks and regular reports received from management and independent third partiesReviews significant legal and regulatory mattersReviews and monitors the Company's operational and third-party compliance programs and updates theretoReviews Ethics Hotline reports and discusses material mattersReviews and approves related party transactionsConducts executive sessions with independent registered public accounting firm and Vice President, Internal Audit at each meetingConducts executive sessions with the Senior Vice President, Secretary and General Counsel, Vice President and Chief Ethics & Compliance Officer, and Senior Vice President and Chief Financial Officer individually at least once per year

Name of Committee, Number of Meetings, and Current Members	Primary Committee Responsibilities
Compensation Committee Meetings in 2022: 5 Members: Clyde R. Moore, <i>Chair</i> Amanda Sourry Mark S. Sutton	<ul style="list-style-type: none"> • Recommends for approval by the independent directors the compensation of the CEO and approves the compensation of senior officers • Administers the Company's executive compensation policies and programs, including determining grants of equity awards under the plans • Reviews annual incentive plans and long-term incentive plan metrics and plan design • Reviews emerging legislation and governance issues and retail compensation trends • Reviews the Company's executive compensation peer group • Reviews CEO pay analysis • Reviews Human Capital Management, including Diversity, Equity, & Inclusion • Has sole authority to retain and direct the Committee's compensation consultant • Assists the full Board with senior management succession planning • Conducts executive sessions with Senior Vice President and Chief People Officer and independent compensation consultant
Corporate Governance Committee Meetings in 2022: 3 Members: Ronald L. Sargent, <i>Chair</i> Elaine L. Chao Anne Gates Clyde R. Moore	<ul style="list-style-type: none"> • Oversees the Company's corporate governance policies and procedures • Develops criteria for selecting and retaining directors, including identifying and recommending qualified candidates to be director nominees • Designates membership and Chairs of Board Committees • Oversees and administers Board evaluation process • Reviews the Board's performance • Establishes and reviews the practices and procedures by which the Board performs its functions • Reviews director independence, financial literacy, and designation of financial expertise • Administers director nomination process • Interviews and nominates candidates for director election • Reviews compliance with share ownership guidelines • Reviews and participates in shareholder engagement • Reviews and establishes independent director compensation • Oversees the annual CEO evaluation process conducted by the full Board

Name of Committee, Number of Meetings, and Current Members	Primary Committee Responsibilities
<p>Finance Committee</p> <p>Meetings in 2022: 6</p> <p>Members:</p> <p>Karen M. Hoguet, <i>Chair</i> Nora A. Aufreiter Amanda Sourry Mark Sutton Ashok Vemuri</p>	<ul style="list-style-type: none"> Oversees the Company's financial affairs and management of the Company's financial resources Reviews the Company's annual and long-term financial plans, capital spending plans, capital allocation strategy, and use of cash Approves and recommends for approval to the Board certain capital expenditures Reviews the Company's dividend policy and share buybacks Reviews strategic transactions, capital structure, including potential issuance of debt or equity securities, credit agreements, and other financing transactions Monitors the investment management of assets held in pension and profit-sharing plans administered by the Company Oversees the Company's policies and procedures on hedging, swaps, risk management, and other derivative transactions Oversees the Company's engagement and relationships with, and standing in, the financial community
<p>Public Responsibilities Committee</p> <p>Meetings in 2022: 3</p> <p>Members:</p> <p>Nora A. Aufreiter, <i>Chair</i> Kevin M. Brown Elaine L. Chao Ronald L. Sargent</p>	<ul style="list-style-type: none"> Reviews the practices of the Company affecting its responsibility as a corporate citizen Examines and reviews the Company's practices related to environmental sustainability, and social impact, including but not limited to <ul style="list-style-type: none"> ✓ climate impacts ✓ packaging ✓ food and operational waste ✓ food access ✓ responsible sourcing ✓ supplier diversity ✓ people safety, food safety, and pharmacy safety Examines and reviews the Company's ESG strategy Reviews the Company's community engagement and philanthropy Reviews the Company's advocacy and public policy Reviews the Company's communications and Corporate Brand stewardship Assesses the Company's effort in evaluating and responding to changing public expectations and public issues that affect the business

Shareholder Engagement

Maintaining ongoing relationships with our shareholders, and understanding our shareholders' views, is a priority for both our Board and management team. We have a longstanding history of engaging with our shareholders and through our investor relations program and our year-round governance outreach program, including participation for our independent directors. In 2022, under the direction of the Board, we requested engagement meetings with 34 shareholders representing 48% of our outstanding shares and subsequently met with 18 shareholders representing 41% of our outstanding shares (many of those shareholders we met with more than once). Some investors we contacted either did not respond or confirmed that a discussion was not needed at that time.



We conduct shareholder outreach throughout the year to engage with shareholders on issues that are important to them and us. During these engagements we discussed and solicited feedback on a range of topics, which informed Board discussions and decisions, including but not limited to:

Business Strategy

- Kroger's growth strategy, priorities, and value drivers
- Our strong value creation model and recent performance

ESG Practices & Disclosures

- Discussions with socially conscious investors and NGOs helped inform our new ESG strategy and long-term commitments
- Thriving Together, Kroger's ESG strategy, including long-term environmental sustainability, social impact, and responsible sourcing commitments, progress updates, and steps being taken to achieve our ambitious goals
- Board oversight of ESG strategy and updated Committee responsibilities
- Kroger's ESG reporting and disclosures, including our alignment with the TCFD, SASB, and GRI reporting frameworks
- The centerpiece of our ESG strategy is Zero Hunger | Zero Waste, an industry-leading platform for collective action and systems change to end hunger in our communities and eliminate waste across our company

Human Capital Management

- Our DE&I Framework for Action and steps we are taking to ensure our workforce reflects the communities we serve
- Our focus on our associates' well-being, including increasing our average hourly associate wage, comprehensive benefits, and opportunities for internal progression and leadership development training
- Workforce diversity reporting, including EEO-1 demographic disclosure
- Robust Board oversight of human rights in our supply chain

Compensation Structure

- Overview of compensation program design and alignment of pay and performance
- Consideration of short- and long-term metrics, including financial and non-financial metrics, such as ESG metrics
- The balance of equity and cash compensation, as well as fixed versus at risk compensation

Board and Board Oversight

- Our Board's approach to board refreshment considering diversity, balance of tenure, and alignment of board skills and experience with Kroger's current and long-term business strategies
- Board and Committee responsibilities for oversight of ESG priorities, and approach to risk management

Discussions with socially conscious investors and NGOs helped inform our ESG strategy and long-term commitments. Overall shareholders expressed appreciation for the opportunity to have an ongoing discussion and were complementary of Kroger's ESG practices. Specifically, shareholders recognized the actions we took to formalize our ESG strategy, Thriving Together, and how our Board oversees this strategy, including our ESG targets and initiatives. These conversations provided valuable insights into our shareholders' evolving perspectives, which were shared with our full Board.

Board's Response to Shareholder Proposals

Accountability to our shareholders continues to be an important component of our success. We actively engage with our shareholder proponents. Every year, following our Annual Shareholders' Meeting, our Corporate Governance Committee considers the voting outcomes for shareholder proposals. In addition, our Corporate Governance Committee and other Committees, as appropriate, consider proposed courses of action in light of the voting outcomes for shareholder proposals under their oversight, as well as feedback provided directly from our shareholders.

Director Nominee Selection Process

The Corporate Governance Committee is responsible for recommending to the Board a slate of nominees for election at each annual meeting of shareholders. The Corporate Governance Committee recruits candidates for Board membership through its own efforts and through recommendations from other directors and shareholders. In addition, the Corporate Governance Committee retains an independent, third-party search firm to assist in identifying and recruiting director candidates who meet the criteria established by the Corporate Governance Committee.

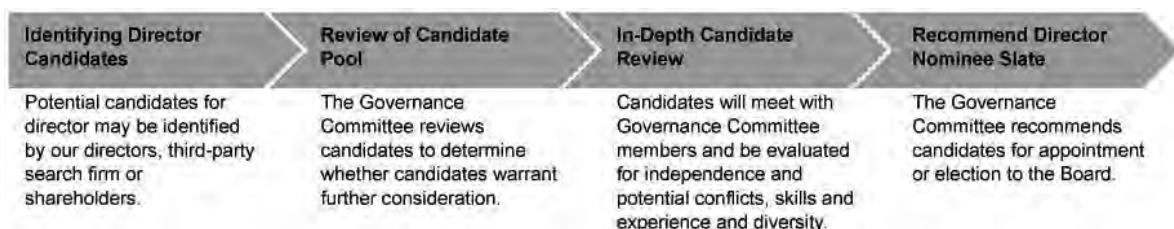
These criteria are:

- demonstrated ability in fields considered to be of value to the Board, including business management, retail, consumer, operations, technology, financial, sustainability, manufacturing, public service, education, science, law, and government;
- experience in high growth companies and nominees whose business experience can help the Company innovate and derive new value from existing assets;
- highest standards of personal character and conduct;
- willingness to fulfil the obligations of directors and to make the contribution of which he or she is capable, including regular attendance and participation at Board and Committee meetings, and preparation for all meetings, including review of all meeting materials provided in advance of the meeting; and
- ability to understand the perspectives of Kroger's customers, taking into consideration the diversity of our customers, including regional and geographic differences.

Additionally, in connection with the use of an independent, third-party search firm to identify director candidates, the Corporate Governance Committee will instruct the firm to include in its initial list qualified female and racially/ethnically diverse candidates.

The Corporate Governance Committee also considers diversity, as discussed in detail under “Board Diversity” above, and the specific experience and abilities of director candidates in light of our current business, strategy, and structure, and the current or expected needs of the Board in its identification and recruitment of director candidates.

The criteria for Board membership applied by the Corporate Governance Committee in its evaluation of potential Board members does not vary based on whether a candidate is recommended by our directors, a third-party search firm, or shareholders.



Candidates Nominated by Shareholders

The Corporate Governance Committee will consider shareholder recommendations for director nominees for election to the Board. If shareholders wish to nominate a person or persons for election to the Board at our 2024 annual meeting, written notice must be submitted to Kroger’s Secretary, and received at our executive offices, in accordance with Kroger’s Regulations, not later than March 28, 2024. Such notice should include the name, age, business address, and residence address of such person, the principal occupation or employment of such person, the number of Kroger common shares owned of record or beneficially by such person and any other information relating to the person that would be required to be included in a proxy statement relating to the election of directors. The Secretary will forward the information to the Corporate Governance Committee for its consideration. The Corporate Governance Committee will use the same criteria in evaluating candidates submitted by shareholders as it uses in evaluating candidates identified by the Corporate Governance Committee, as described above. See “Director Nominee Selection Process.”

Additionally, to comply with the universal proxy rules, shareholders who intend to solicit proxies in support of director nominees other than our nominees must provide notice to Kroger’s Secretary that sets forth the information required by Rule 14a-19 of the Exchange Act no later than April 23, 2024, and must comply with the additional requirements of Rule 14a-19(b).

Eligible shareholders have the ability to submit director nominees for inclusion in our proxy statement for the 2024 annual meeting of shareholders. To be eligible, shareholders must have owned at least 3% of our common shares for at least three years. Up to 20 shareholders are able to aggregate for this purpose. Nominations must be submitted to our Corporate Secretary at our principal executive offices no earlier than December 14, 2023 and no later than January 13, 2024.

Corporate Governance Guidelines

The Board has adopted the *Guidelines*, which provide a framework for the Board’s governance and oversight of the Company. The *Guidelines* are available on our website at ir.kroger.com under Investors — Governance — Corporate Governance Guidelines. Shareholders may also obtain a copy of the *Guidelines*, at no cost, by making a written request to Kroger’s Secretary at our executive offices. Certain key principles addressed in the *Guidelines* are summarized below.

Independence

The Board has determined that all of the current independent directors and nominees have no material relationships with Kroger and satisfy the criteria for independence set forth in Rule 303A.02 of the NYSE Listed Company Manual. Therefore, all independent directors and nominees are independent for purposes of the NYSE listing standards. The Board made its determination based on information furnished to the Company by each of the directors regarding their relationships with Kroger and its management, and other relevant information. The Board considered, among other things, that

- the value of any business transactions between Kroger and entities with which the directors are affiliated falls below the thresholds identified by the NYSE listing standards, and
- no directors had any material relationships with Kroger other than serving on our Board.

Audit Committee Independence and Expertise

The Board has determined that Anne Gates, Karen M. Hoguet, Ronald L. Sargent, and Ashok Vemuri, independent directors, each of whom is a member of the Audit Committee, are “Audit Committee financial experts” as defined by applicable Securities and Exchange Commission (“SEC”) regulations and that all members of the Audit Committee are “financially literate” as that term is used in the NYSE listing standards and are independent in accordance with Rule 10A-3 of the Securities Exchange Act of 1934.

Code of Ethics

The Board has adopted *The Kroger Co. Policy on Business Ethics*, applicable to all officers, associates, and directors, including Kroger’s principal executive, financial, and accounting officers. The *Policy on Business Ethics* is available on our website at ir.kroger.com under Investors — Governance — Policy on Business Ethics. Shareholders may also obtain a copy of the *Policy on Business Ethics* by making a written request to Kroger’s Secretary at our executive offices.

Communications with the Board

The Board has established two separate mechanisms for shareholders and interested parties to communicate with the Board. Any shareholder or interested party who has concerns regarding accounting, improper use of Kroger assets, or ethical improprieties may report these concerns via the toll-free hotline (800-689-4609) or website (ethicspoint.com) established by the Board’s Audit Committee. The concerns are investigated by Kroger’s Vice President, Chief Ethics and Compliance Officer, and the Vice President of Internal Audit and reported to the Audit Committee as deemed appropriate.

Shareholders or interested parties also may communicate with the Board in writing directed to Kroger’s Secretary at our executive offices. Communications relating to personnel issues, ordinary business operations, or companies seeking to do business with us, will be forwarded to the business unit of Kroger that the Secretary deems appropriate. Other communications will be forwarded to the Chair of the Corporate Governance Committee for further consideration. The Chair of the Corporate Governance Committee will take such action as he or she deems appropriate, which may include referral to the full Corporate Governance Committee or the entire Board.

Executive Officer Succession Planning

The *Guidelines* provide that the Compensation Committee will review Company policies and programs for talent development and evaluation of executive officers, and will review management succession planning. In connection with the use of a third-party search firm to identify external candidates for executive officer positions, including the chief executive officer, the Board and/or the Company, as the case may be, will instruct the third-party search firm to include in its initial list qualified female and racially/ethnically diverse candidates.

Attendance

The Board held 14 meetings in fiscal year 2022. During fiscal 2022, all incumbent directors attended at least 75% of the aggregate number of meetings of the Board and Committees on which that director served. Members of the Board are expected to use their best efforts to attend all annual meetings of shareholders. All Board members attended last year’s virtual annual meeting.

Independent Compensation Consultants

The Compensation Committee directly engages a compensation consultant to advise the Compensation Committee in the design of Kroger's executive compensation. The Committee retained Korn Ferry Hay (US) ("Korn Ferry") beginning in December 2017. Retained by – and reporting directly to – the Compensation Committee, Korn Ferry provided the Committee with assistance in evaluating Kroger's executive compensation programs and policies.

In fiscal 2022, Kroger paid Korn Ferry \$402,007 for work performed for the Compensation Committee. Kroger, on management's recommendation, retained Korn Ferry to provide other services for Kroger in fiscal 2022 for which Kroger paid \$69,500. These other services primarily related to salary surveys, benchmarking, integrated reporting, and operational finance review. The Compensation Committee expressly approved Korn Ferry performing these additional services. After taking into consideration the NYSE's independence standards and the SEC rules, the Compensation Committee determined that Korn Ferry was independent, and their work has not raised any conflict of interest.

The Compensation Committee may engage an additional compensation consultant from time to time as it deems advisable.

Compensation Committee Interlocks and Insider Participation

No member of the Compensation Committee was an officer or associate of Kroger during fiscal 2022, and no member of the Compensation Committee is a former officer of Kroger or was a party to any related person transaction involving Kroger required to be disclosed under Item 404 of Regulation S-K. During fiscal 2022, none of our executive officers served on the Board of directors or on the compensation Committee of any other entity that has or had executive officers serving as a member of Kroger's Board of Directors or Compensation Committee of the Board.

The Board's Role in Risk Oversight

While risk management is primarily the responsibility of Kroger's management team, the Board is responsible for strategic planning and overall supervision of our risk management activities. The Board's oversight of the material risks faced by Kroger occurs at both the full Board level and at the Committee level, each of which may engage advisors and experts from time to time to provide advice and counsel on risk-related matters.

We believe that our approach to risk oversight optimizes our ability to assess inter-relationships among the various risks, make informed cost-benefit decisions, and approach emerging risks in a proactive manner for Kroger. We also believe that our risk oversight structure complements our current Board leadership structure, as it allows our independent directors, through the five fully independent Board Committees, and in executive sessions of independent directors led by the Lead Director, to exercise effective oversight of the actions of management's identification of risk and implementation of effective risk management policies and controls.

The Board receives presentations throughout the year from various department and business unit leaders that include discussion of significant risks, including newly identified and evolving high priority risks. When new risks are identified, management conducts, and either the full Board or the appropriate Board committee reviews and discusses, an enterprise risk assessment related to such new risks which may include human capital, supply chain, associate and customer health and safety, legal, regulatory, and other risks. Management and the Board then discuss the relative severity of each category of risk as well as mitigating actions and considerations relating to disclosures of material risks.

At each Board meeting, the CEO addresses matters of particular importance or concern, including any significant areas of risk, such as newly identified risks, that require Board attention. Additionally, through dedicated sessions focusing entirely on corporate strategy, the full Board reviews in detail Kroger's short- and long-term strategies, including consideration of significant risks facing Kroger – either immediately or longer term – and their potential impact. The independent directors, in executive sessions led by the Lead Director, address matters of particular concern, including significant areas of risk, that warrant further discussion or consideration outside the presence of Kroger employees. At the committee level, reports are given by management subject matter experts to each Committee on risks within the scope of their charters. Each Committee reports to the full Board at each meeting, including any areas of risk discussed by the Committee.

The Audit Committee has oversight responsibility not only for financial reporting of Kroger's major financial exposures and the steps management has taken to monitor and control those exposures, but also for the effectiveness of management's processes that monitor and manage key business risks facing Kroger, as well as the major areas of risk exposure, and management's efforts to monitor and control the major areas of risk exposure. The Audit

Committee incorporates its risk oversight function into its regular reports to the Board and also discusses with management its policies with respect to risk assessment and risk management.

Our Vice President, Chief Ethics and Compliance Officer provides regular updates to the Audit Committee on our compliance risks and actions taken to mitigate that risk. In addition, the Audit Committee is charged with oversight of data privacy and cybersecurity risks. Protection of our customers' data is a fundamental priority for our Board and management team. Our Chief Information Officer and our Chief Information Security Officer provide updates at each quarterly Committee meeting on our cybersecurity risks and actions taken to mitigate that risk to the Audit Committee and meet with the full Board at least annually. The Chief Information Security Officer reports on compliance and regulatory issues, continuously evolving threats and mitigating actions, and presents a NIST Cybersecurity Framework Scorecard to the Audit Committee. In overseeing cybersecurity risks, the Audit Committee focuses on thematic issues within an aggregated strategic lens and uses a risk-based approach. Oversight of cybersecurity risk incorporates strategy metrics, third party assessments, and internal audit and controls. Finally, an independent third party also regularly reports to the Audit Committee/Board on cybersecurity and outside counsel advises the Board about best practices for cybersecurity oversight by the Board, and the evolution of that oversight over time. Management also reports on strategic key risk indicators, ongoing initiatives, and significant incidents and their impact.

Board Oversight of Environmental, Sustainability, and Governance

We are aligned with the desire of our customers, associates, and shareholders to engage in our communities and reduce our impacts on the environment while continuing to create positive economic value over the long-term. Given the breadth of topics and their importance to us, all of our Board Committees have direct oversight of environmental, social, and governance topics. ESG topics our Board Committees oversee are as follows:

Audit	<ul style="list-style-type: none"> • Legal & Regulatory • Ethics • Operational and Third-Party Compliance • Data Privacy & Cyber Security • Financial Integrity
Compensation & Talent Development	<ul style="list-style-type: none"> • Human Capital Management • Talent Development • Executive Compensation • Diversity, Equity & Inclusion
Corporate Governance	<ul style="list-style-type: none"> • Board recruitment/diversity • Board succession • Shareholder engagement program • Shareholder advisory votes & shareholder proposals • Independent director compensation
Finance	<ul style="list-style-type: none"> • Capital spending to ensure consistency with ESG strategy and goals
Public Responsibilities	<ul style="list-style-type: none"> • Environmental Sustainability <ul style="list-style-type: none"> ✓ Climate Impacts ✓ Packaging ✓ Food Waste (<i>Zero Waste</i>) • Social Impact <ul style="list-style-type: none"> ✓ Food Access and Affordability (<i>Zero Hunger</i>) ✓ Local Communities ✓ Philanthropy ✓ Responsible Sourcing <ul style="list-style-type: none"> ➢ Human Rights ➢ Animal Welfare • Safety <ul style="list-style-type: none"> ✓ Food ✓ People ✓ Pharmacy • Advocacy & Public Policy <ul style="list-style-type: none"> ✓ Government Relations ✓ Political action (KroPAC) • Communications & Brand Stewardship <ul style="list-style-type: none"> ✓ Associate & External Communications • Stakeholder Relations

Our commitment to ESG matters is not new. Our Public Responsibilities Committee was established in 1977. For the past 16 years, our Company has prepared and produced an annual report describing our progress and initiatives regarding sustainability and other ESG matters. For the most recent information regarding our ESG initiatives and related matters, please visit <https://www.thekrogerco.com/esgreport/>. The information on, or accessible through, this website is not part of, or incorporated by reference into, this proxy statement.

In addition, our full Board oversees issues related to diversity and inclusion within the Kroger workplace. Diversity and inclusion have been deeply rooted in Kroger's values for decades. We are committed to fostering an environment of inclusion in the workplace, marketplace, and workforce where the diversity of cultures, backgrounds, experiences, perspectives, and ideas are valued and appreciated. Kroger's corporate team and retail divisions have strategic collaborations with universities, educational institutions, and community organizations to improve how we attract candidates from all backgrounds and ethnicities for jobs at all levels. Diversity and inclusion will continue to be a key ingredient in feeding Kroger's innovation, long-term sustainability, and the human spirit.

The Kroger family of companies provides inclusion training to all management and all hourly associates. Most work locations (stores, plants, distribution centers, and offices) have an inclusion-focused team, called Our Promise team. The teams work on projects that reflect Kroger's values, offer leaders valuable feedback and suggestions on improving diversity and inclusion, and facilitate communication to champion business priorities.

Our Commitment to Diversity, Equity, & Inclusion

Kroger's Chief People Officer leads Human Resources & Labor Relations, which includes our Diversity, Equity & Inclusion team. This function — with human resources professionals in place across our lines of business and retail divisions — advocates for and fosters an associate experience that reflects our Values. It also monitors and measures progress toward goals and identifies potential opportunities for improvement.

Kroger publicly affirmed our commitment with our Framework for Action: Diversity, Equity, & Inclusion, a 10-point plan outlining short- and longer-term steps developed with associates and leaders to promote greater change in the workplace and the communities we serve. This framework outlines five focus areas: Create More Inclusive Culture, Develop Diverse Talent, Advance Diverse Partnerships, Advance Equitable Communities, and Deeply Listen and Report Progress. More details about the plan are available here: <https://www.thekrogerco.com/community/standing-together/>. The information on, or accessible through, this website is not part of, or incorporated by reference into, this proxy statement.

Enabling Connections

As part of the framework, we committed to provide inclusion training for our associates. More than 661,000 leaders and associates have completed diversity and inclusion training since 2020. In 2020, Kroger formed an internal Diversity, Equity, & Inclusion Advisory Council comprised of leaders from across the organization. The Council works closely with our executive leadership team and other business leaders to identify opportunities and action steps for improvement. We also created an Associate Influencer Group to facilitate representation and input from all levels of the company.

Kroger also operates 15 internal Associate Resource Groups (ARGs), or affinity groups, some of which also have local chapters. These groups enable stronger connections across our family of companies, lift up shared experiences, promote personal and professional growth, and influence business decisions. Kroger leaders sponsor and personally engage with the ARGs.

Workplace Equity

Kroger strives to attract, retain, and develop diverse leaders and associates who reflect the communities we serve. We offer accessible employment for a wide range of people across the country. Because of our unique business model, we help unlock economic opportunity for more than 430,000 people of all ages and aspirations, from those wanting an entry-level part-time job to graduate-degree specialists across corporate functions.

Kroger strategically invests in our associates' growth and movement across levels, lines of business, and geographies. Our goal is to shift the demographic representation of women and people of color at company-wide and local levels to reflect our changing country, communities, and neighborhoods. The Diversity, Equity, & Inclusion Advisory Council helps define aspirations for our workforce of the future.

Community Engagement

As part of our Framework for Action, the Company also pledged to invest in advancing equitable communities. Kroger directed a total of \$10 million to establish and advance The Kroger Co. Foundation's Racial Equity Fund in 2020. To date, the Foundation has directed \$5.7 million in grants to organizations driving positive change at national and local levels.

In 2022, the Foundation directed \$1 million to The Asian American Foundation to support the Asian-American community. As part of its continuing relationship with the Thurgood Marshall College Fund, the Foundation also hosted its second annual Zero Hunger | Zero Waste Innovation Challenge. During the three-day business pitch competition with 36 students from Historically Black Colleges and Universities across the U.S., the Foundation awarded a total of \$75,000 in scholarships. In collaboration with Proctor & Gamble, the Foundation also introduced the Game Changers Scholarship program and awarded \$25,000 in scholarships to five diverse female students in the Greater Cincinnati area.

Director Compensation

2022 Director Compensation

The following table describes the fiscal year 2022 compensation for independent directors. Mr. McMullen does not receive compensation for his Board service.

Name	Fees Earned or Paid in		Change in Pension Value and Nonqualified Deferred Compensation ⁽²⁾	Total
	Cash	Stock Awards ⁽¹⁾		
Nora A. Aufreiter	\$114,691	\$186,382	\$0	\$301,073
Kevin M. Brown	\$109,704	\$186,382	\$0	\$296,086
Elaine L. Chao	\$99,731	\$186,382	\$0	\$286,113
Anne Gates	\$134,637	\$186,382	\$0	\$321,019
Karen M. Hoguet	\$124,664	\$186,382	\$0	\$311,046
Clyde R. Moore	\$119,677	\$186,382	—	\$306,059
Ronald L. Sargent	\$162,063	\$186,382	\$5,282	\$353,727
Amanda Soury	\$99,731	\$186,382	\$0	\$286,113
Mark S. Sutton	\$99,731	\$186,382	\$0	\$286,113
Ashok Vemuri	\$109,704	\$186,382	\$0	\$296,086

(1) Amounts reported in the Stock Awards column represent the aggregate grant date fair value of the annual incentive share award, computed in accordance with FASB ASC Topic 718. On July 13, 2022, each independent director then serving received 3,887 incentive shares with a grant date fair value of \$186,382.

(2) The amount reported for Mr. Sargent represents preferential earnings on nonqualified deferred compensation. For a complete explanation of preferential earnings, please refer to footnote 4 to the Summary Compensation Table. Mr. Moore's pension value decreased by \$210,996 which represents the change in actuarial present value of his accumulated benefit under the pension plan for independent directors. This change in value of accumulated pension benefits is not included in the Director Compensation Table because the value decreased. Pension values may fluctuate significantly from year to year depending on a number of factors, including age, average annual earnings, and the assumptions used to determine the present value, such as the discount rate. The decrease in the actuarial present value of his accumulated pension benefit for 2022 is primarily due to the increase in the discount rate as well as the change in value due to aging.

Annual Compensation

Each independent director receives an annual cash retainer of \$100,000. The Lead Director receives an additional annual retainer of \$37,500 per year; the members of the Audit Committee each receive an additional annual retainer of \$10,000; the Chair of the Audit Committee receives an additional annual retainer of \$25,000; the Chair of the Compensation Committee receives an additional annual retainer of \$20,000; and the Chair of each of the other Committees receives an additional annual retainer of \$15,000. Each independent director also receives an annual grant of incentive shares (Kroger common shares) with a value of approximately \$185,000.

The Board has determined that compensation of independent directors must be competitive on an ongoing basis to attract and retain directors who meet the qualifications for service on the Board. Independent director compensation was adjusted in 2021 and will be reviewed from time to time as the Corporate Governance Committee deems appropriate.

Pension Plan

Independent directors first elected prior to July 17, 1997 receive an unfunded retirement benefit equal to the average cash compensation for the five calendar years preceding retirement. Only Mr. Moore is eligible for this benefit. Benefits begin at the later of actual retirement or age 65.

Nonqualified Deferred Compensation

We also maintain a deferred compensation plan for independent directors. Participants may defer up to 100% of their cash compensation and/or the receipt of all (and not less than all) of the annual award of incentive shares.

Cash Deferrals

Cash deferrals are credited to a participant's deferred compensation account. Participants may elect from either or both of the following two alternative methods of determining benefits:

- interest accrues until paid out at the rate of interest determined prior to the beginning of the deferral year to represent Kroger's cost of ten-year debt; and/or
- amounts are credited in "phantom" stock accounts and the amounts in those accounts fluctuate with the price of Kroger common shares.

In both cases, deferred amounts are paid out only in cash, based on deferral options selected by the participant at the time the deferral elections are made. Participants can elect to have distributions made in a lump sum or in quarterly installments, and may make comparable elections for designated beneficiaries who receive benefits in the event that deferred compensation is not completely paid out upon the death of the participant.

Incentive Share Deferrals

Participants may also defer the receipt of all (and not less than all) of the annual award of incentive shares. Distributions will be made by delivery of Kroger common shares within 30 days after the date which is six months after the participant's separation of service.

Director Stock Ownership Guidelines

Independent directors are required to own shares equivalent to five times their annual base cash retainer. For more details on the Stock Ownership Guidelines, see page 60.

Beneficial Ownership of Common Stock

The following table sets forth the common shares beneficially owned as of April 24, 2023 by Kroger's directors, the NEOs, and the directors and executive officers as a group. The percentage of ownership is based on 723,532,073 of Kroger common shares outstanding on April 24, 2023. Shares reported as beneficially owned include shares held indirectly through Kroger's defined contribution plans and other shares held indirectly, as well as shares subject to stock options exercisable on or before June 23, 2023. Except as otherwise noted, each beneficial owner listed in the table has sole voting and investment power with regard to the common shares beneficially owned by such owner. Unless otherwise indicated, the address of each of the beneficial owners listed below is c/o The Kroger Co., Corporate Secretary, 1014 Vine Street, Cincinnati, OH 45202.

Name	Amount and Nature of Beneficial Ownership ⁽¹⁾	Options Exercisable on or before June 23, 2023 – included in column (a)
Stuart W. Aitken ⁽²⁾	441,766	260,420
Nora A. Aufreiter ⁽³⁾	48,543	—
Kevin M. Brown	11,004	—
Elaine L. Chao ⁽³⁾	8,036	—
Yael Cosset	399,835	248,377
Anne Gates ⁽³⁾	43,125	—
Karen M. Hoguet ⁽⁴⁾	19,552	—
Timothy A. Massa	506,660	311,704
W. Rodney McMullen	6,353,306	2,772,130
Gary Millerchip	540,043	354,620
Clyde R. Moore	121,423	—
Ronald L. Sargent ⁽³⁾	180,871	—
Amanda Soury	11,004	—
Mark S. Sutton ⁽³⁾	38,452	—
Ashok Vemuri	24,900	—
Directors and executive officers as a group (22 persons, including those named above)	9,988,204	4,579,577

(1) No director or officer owned as much as 1% of Kroger common shares. The directors and executive officers as a group beneficially owned 1.4% of Kroger common shares.

(2) This amount includes 3,018 shares held by Mr. Aitken's spouse. He disclaims beneficial ownership of these shares.

(3) This amount includes incentive share awards that were deferred under the deferred compensation plan for independent directors in the following amounts: Ms. Aufreiter, 10,037; Ms. Chao, 3,952; Ms. Gates, 12,100; Mr. Sargent, 55,960; Mr. Sutton, 6,909.

(4) This amount includes 2,075 shares held by Ms. Hoguet's spouse. She disclaims beneficial ownership of these shares.

The following table sets forth information regarding the beneficial owners of more than five percent of Kroger common shares as of April 24, 2023 based on reports on Schedule 13G filed with the SEC.

Name	Address	Amount and Nature of Ownership	Percentage of Class
Berkshire Hathaway Inc.	3555 Farnam Street Omaha, NE 68131	50,000,000 ⁽¹⁾	7.0%
BlackRock, Inc.	55 East 52nd Street New York, NY 10055	65,963,885 ⁽²⁾	9.2%
The Vanguard Group	100 Vanguard Blvd. Malvern, PA 19355	82,426,702 ⁽³⁾	11.51%

- (1) Reflects beneficial ownership by Berkshire Hathaway Inc. as of December 31, 2022, as reported on Schedule 13G filed with the SEC on February 14, 2023, reporting shared voting power with respect to 50,000,000 common shares, and shared dispositive power with regard to 50,000,000 common shares.
- (2) Reflects beneficial ownership by BlackRock Inc., as of December 31, 2022, as reported on Amendment No. 15 to Schedule 13G filed with the SEC on January 24, 2023, reporting sole voting power with respect to 59,579,943 common shares, and sole dispositive power with regard to 65,963,885 common shares.
- (3) Reflects beneficial ownership by The Vanguard Group as of December 30, 2022, as reported on Amendment No. 8 to Schedule 13G filed with the SEC on February 9, 2023, reporting shared voting power with respect to 931,562 common shares, sole dispositive power of 79,719,502 common shares, and shared dispositive power of 2,707,200 common shares.

Related Person Transactions

The Board has adopted a written policy requiring that any Related Person Transaction may be consummated or continue only if the Audit Committee approves or ratifies the transaction in accordance with the policy. A “Related Person Transaction” is one (a) involving Kroger, (b) in which one of our directors, nominees for director, executive officers, or greater than five percent shareholders, or their immediate family members, have a direct or indirect material interest; and (c) the amount involved exceeds \$120,000 in a fiscal year.

The Audit Committee will approve only those Related Person Transactions that are in, or not inconsistent with, the best interests of Kroger and its shareholders, as determined by the Audit Committee in good faith in accordance with its business judgment. No director may participate in any review, approval, or ratification of any transaction if he or she, or an immediate family member, has a direct or indirect material interest in the transaction.

Where a Related Person Transaction will be ongoing, the Audit Committee may establish guidelines for management to follow in its ongoing dealings with the related person and the Audit Committee will review and assess the relationship on an annual basis to ensure it complies with such guidelines and that the Related Person Transaction remains appropriate.

Compensation Discussion and Analysis

This Compensation Discussion and Analysis provides an overview of the elements and philosophy of our executive compensation program as well as how and why the Compensation Committee and our Board of Directors make specific compensation decisions and policies with respect to our Named Executive Officers (“NEOs”).

Executive Summary



We delivered exceptional performance in 2022. Kroger achieved exceptional results in 2022 as we executed on our *Leading with Fresh and Accelerating with Digital* strategy, building on record years in 2020 and 2021. We are delivering a fresh, affordable, and seamless shopping experience for our customers, with zero compromise on quality, selection, or convenience. We are delivering on our financial commitments through our strong, resilient Value Creation Model. In 2022, we achieved financial performance results of ID sales, without fuel, of 5.6%, and adjusted FIFO operating profit, including fuel, of \$5.1 billion¹.



Our executive compensation program aligns with long-term shareholder value creation. 91% of our CEO’s target total direct compensation and, on average, 84% of the other NEOs’ compensation is at risk and performance-based, tied to achievement of performance targets that are important to our shareholders or our long-term share price performance.



The annual performance incentive was earned above target reflecting our 2022 performance. The annual incentive program, based on a grid of identical sales, excluding fuel, and adjusted FIFO operating profit, including fuel, paid out at 192.40% of target. In light of macroeconomic conditions, including inflation, as well as the Compensation Committee’s desire to create ongoing alignment with shareholders and reward sustained performance beyond 2022, the Compensation Committee determined to structure the payout to the NEOs as follows: 150% in cash and the remaining 42.4% in restricted stock vesting in one year.



The long-term performance incentive payout reflects alignment with performance over fiscal years 2020, 2021, and 2022. Long-term performance unit equity awards granted in 2020 and tied to commitments made to our investors and other stakeholders regarding long-term sales growth, adjusted FIFO operating profit growth, free cash flow generation, our commitment to Fresh, and Relative Total Shareholder Return were earned at 93.75% of target.



We prioritized investment in our people. We strive to create a culture of opportunity for nearly 430,000 associates and take seriously our role as a leading employer in the United States. In 2022, we invested more than ever in our associates by continuing to raise our average hourly wage to \$18, or over \$23, including industry-leading benefits.



In response to our shareholder feedback, we incorporated an ESG metric focused on diversity and inclusion into our 2022 individual performance management program. Our core values of Diversity, Equity & Inclusion are incorporated into compensation decisions made for our associates who supervise a team of others, which range from store department leaders through our NEOs. These performance goals are factored into compensation decisions for these leaders, including salary increases and the amount of the annual grant of equity awards.

¹ See pages 27 – 33 of our Annual Report on Form 10-K for the fiscal year ended January 28, 2023, filed with the SEC on March 28, 2023, for a reconciliation of GAAP operating profit to adjusted FIFO operating profit.

Our Named Executive Officers for Fiscal 2022

Name	Title
W. Rodney McMullen	Chairman and Chief Executive Officer
Gary Millerchip	Senior Vice President and Chief Financial Officer
Stuart W. Aitken	Senior Vice President and Chief Merchandising & Marketing Officer
Yael Cosset	Senior Vice President and Chief Information Officer
Timothy A. Massa	Senior Vice President and Chief People Officer

Fiscal 2022 Financial and Strategic Performance Highlights

Driven by our unwavering purpose to Feed the Human Spirit, Kroger achieved exceptional results in 2022 as we executed on our *Leading with Fresh and Accelerating with Digital* strategy, building on record years in 2020 and 2021. Our associates are customer-focused, delivering the products customers want, when and how they want them, with zero compromise on quality, convenience, and selection.

In 2022, we achieved financial performance results of ID sales, without fuel, of 5.6%, and adjusted FIFO operating profit of \$5.1 billion. We have built a digital platform that offers a seamless shopping experience, allowing customers to shift effortlessly between store, pickup and delivery solutions. In 2022, we increased delivery sales, opened new customer fulfillment centers, increased digitally engaged households, and grew loyalty as our customers more deeply engaged with personalized coupons and fuel rewards.

Our associates enable our success, and we are committed to investing in theirs by continuing to improve wages, comprehensive benefits, and career development opportunities. We invested approximately \$600 million in incremental wages in 2022, for a total of \$1.9 billion in incremental investments since 2018.

Continued strategic efforts to streamline our operations allowed us to achieve cost savings greater than \$1 billion for the fifth consecutive year to balance these investments without compromising food affordability for our customers across our communities.

As part of our Zero Hunger | Zero Waste social and environmental impact plan, in 2022, we donated nearly 600 million meals to feed families across America.

Our proven go-to-market strategy enables us to successfully navigate many operating environments. We believe that by delivering value for our customers, investing in our associates and serving our communities, we will continue to achieve attractive and sustainable total returns for our shareholders.

2022 Advisory Vote to Approve Executive Compensation and Shareholder Engagement

At the 2022 annual meeting, we held our annual advisory vote on executive compensation. Approximately 92% of the votes cast were in favor of the advisory vote. As part of our ongoing dialogue with our shareholders regarding governance matters, in 2022, we requested meetings with 32 shareholders representing 49% of our outstanding shares during proxy season and off-season engagement and 7 shareholders representing 24% of our outstanding shares accepted our invitation to share feedback. Some investors we contacted either did not respond or confirmed that a discussion was not needed at that time.

Conversations in these meetings included discussions about our NEO's compensation program, with our shareholders providing feedback that they appreciated the pay-for-performance structure of our executive pay program. The Compensation Committee considers both the general and specific feedback received from shareholders, and with the guidance of our independent compensation consultant, incorporates that input into pay design.

During shareholder engagement, we specifically discuss our shareholders' perspectives on ESG metrics in executive compensation programs. Our investors are all supportive of companies' decisions to incorporate ESG metrics, but none are prescriptive about how to do so. Our investors share our view that a range of ESG matters are essential to our current and future success, and acknowledge that ESG priorities are embedded into our strategic and operational priorities. Management collects and reports the feedback to the Compensation Committee, and the Committee decided, beginning in 2022, to integrate our core values of Diversity, Equity & Inclusion into compensation decisions made for our associates who supervise a team of others, which range from store department leaders through our NEOs. Specifically, one of several performance goals established for these associates and senior officers relate to improvement in the Diversity, Equity, & Inclusion category score as measured by our annual Associate Insights Survey and active mentorship and development of at least one other associate with a different

background. These performance goals are factored into compensation decisions for these associates and senior officers, including salary increases and the amount of the annual grant of equity awards, consistent with our program design as described herein.

2022 Compensation Program Overview

The fixed and at-risk pay elements of the NEO compensation program are reflected in the following table and charts.

	Element	Form	Description	
ANNUAL / SHORT-TERM INCENTIVE	Base Salary	Cash	<ul style="list-style-type: none"> Attract, incentivize, retain talented executives Fixed cash component Reviewed annually 	FIXED
	Annual Incentive Plan	Cash Bonus	<ul style="list-style-type: none"> Metrics and targets align with annual business goals; payout depends on actual performance against each goal Rewards and incentivizes Kroger employees, including NEOs, for annual performance on key financial and operational metrics 	
LONG-TERM INCENTIVE	Performance -Based Equity	Performance Units	<ul style="list-style-type: none"> Performance units are equity grants which are "paid out" in Kroger common shares, dependent upon company performance against each goal, at the end of the 3-year performance period Measures performance on key financial and operational metrics over a 3-year period and payout is subject to a relative TSR modifier Designed to create shareholder value, foster executive retention, and align NEO and shareholder interests 	VARIABLE / AT-RISK
	Time-Based Equity	Restricted Stock Stock Options	<ul style="list-style-type: none"> Stock options and restricted stock for NEOs vest ratably over 4 years; exercise price of stock options is closing price on day of grant Provides direct alignment to stock price appreciation and rewards executives for the achievement of long-term business objectives and providing incentives for the creation of shareholder value 	

Fiscal Year 2022 CEO Compensation

The Compensation Committee establishes Mr. McMullen's target direct compensation such that only 9% of his compensation is fixed. The remaining 91% of target compensation is at-risk, meaning that the actual compensation Mr. McMullen receives will depend on the extent to which the Company achieves the performance metrics set by the Compensation Committee, and with respect to all of the equity vehicles, the future value of Kroger common shares.

The table below compares fiscal 2022 to 2021 target direct compensation. Target total direct compensation is a more accurate reflection of how the Compensation Committee benchmarks and establishes CEO compensation than the disclosure provided in the Summary Compensation Table, which includes a combination of actual base salaries and annual incentive compensation earned in the fiscal year, the grant date fair market value of at-risk equity compensation to be earned in future fiscal years, and the actuarial value of future pension benefits.

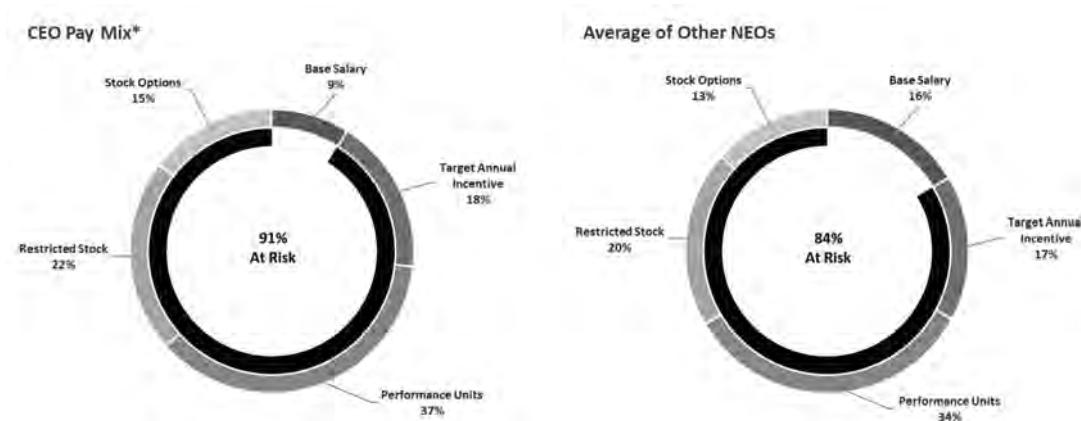
Increases to Mr. McMullen's pay elements shown below were based on our independent compensation consultant's examination of pay levels and the Committee's intention to achieve median pay levels among our peer group. Target total compensation, which is the sum of target annual compensation and target long term compensation is positioned around market median.

(\$000s)

Year	Annual			Long-Term					
	Target Salary	Annual Incentive	Total Annual	Performance Units	Restricted Stock	Stock Options	Total LTI	Target TDC	Increase
2022	1,400	2,800	4,200	5,750	3,450	2,300	11,500	15,700	+5.6%
2021	1,355	2,500	3,855	5,500	3,300	2,200	11,000	14,855	

CEO and Named Executive Officer Target Pay Mix

The amounts used in the charts below are based on 2022 target total direct compensation for the CEO and the average of other NEOs. As illustrated below, 91% of the CEO's target total direct compensation is at-risk. On average, 84% of the other NEOs' compensation is at-risk.



*Total exceeds 100% due to rounding.

Our Compensation Philosophy and Objectives

Our executive compensation philosophy is to attract and retain the best management talent as well as motivate these associates to achieve our business and financial goals. Kroger's incentive plans are designed to reward the actions that lead to long-term value creation. We believe our strategy creates value for shareholders in a manner consistent with Kroger's purpose: To Feed the Human Spirit. The Compensation Committee believes that there is a strong link between our business strategy, the performance metrics in our short-term and long-term incentive programs, and the business results that drive shareholder value.

To achieve our objectives, the Compensation Committee seeks to ensure that compensation is competitive and that there is a direct link between pay and performance. To do so, it is guided by the following principles:

- Compensation must be designed to attract and retain those individuals who are best suited to be an NEO at Kroger.
- A significant portion of pay should be performance-based, with the percentage of total pay tied to performance increasing proportionally with an NEO's level of responsibility.
- Compensation should include incentive-based pay to drive performance, providing superior pay for superior performance, including both a short- and long-term focus.
- Compensation policies should include an opportunity for, and a requirement of, significant equity ownership to align the interests of NEOs and shareholders.
- Components of compensation should be tied to an evaluation of business and individual performance measured against metrics that directly drive our business strategy and progress toward our corporate ESG priorities.
- Compensation plans should provide a direct line of sight to company performance.
- Compensation programs should be aligned with market practices.
- Compensation programs should serve to both motivate and retain talent.

Summary of Key Compensation Practices

What we do:	What we do not do:
<ul style="list-style-type: none"> ✓ Alignment of pay and performance ✓ Stock ownership guidelines for executives ✓ Multiple performance metrics under our short- and long-term performance-based plans discourage excessive risk taking and align with our long-term value creation strategy ✓ Double-trigger change in control provisions in all equity awards ✓ Double-trigger change in control provisions in cash severance benefits ✓ All long-term compensation is equity-based ✓ Engagement of an independent compensation consultant ✓ Robust clawback policy ✓ Ban on hedging, pledging, and short sales of Kroger securities ✓ Minimal perquisites 	<ul style="list-style-type: none"> ✗ No employment contracts with executive officers ✗ No special severance or change in control programs applicable only to executive officers ✗ No cash component in long-term incentive plans ✗ No tax gross-up payments for executives ✗ No special executive life insurance benefit ✗ No re-pricing or backdating of stock options without shareholder approval ✗ No guaranteed salary increases or bonuses ✗ No payment of dividends or dividend equivalents until performance units are earned ✗ No evergreen or reload feature; no shares can be added to stock plan without shareholder approval

Establishing Each Component of Executive Compensation

The Compensation Committee recommends, and the independent members of the Board determine, each component of the CEO's compensation. The CEO recommends, and the Compensation Committee determines, each component of the other NEOs' compensation. The Compensation Committee and the Board made changes to compensation in March of 2022. Equity awards were granted in March and salary and annual incentive plan increases were effective April 1, 2022.

The Compensation Committee determines the amount of each NEO's salary, annual cash incentive plan target, and long-term equity compensation by taking into consideration numerous factors including:

- An assessment of individual contribution and performance;
- Benchmarking with comparable positions at peer group companies;
- Level in organization and tenure in role; and
- Internal equity among executives.

The assessment of individual contribution and performance is a qualitative determination, based on the following factors:

- Leadership;
- Contribution to the executive officer group;
- Achievement of established performance objectives;
- Decision-making abilities;
- Performance of the areas or groups directly reporting to the NEO;
- Support of company culture;
- Strategic thinking; and
- Demonstrated commitment to Kroger's Values: Safety, Honesty, Integrity, Respect, Diversity, and Inclusion, including improvement in the DE&I category score as measured by our annual Associate Insights Survey and active mentorship and development of at least one other associate with a different background.

At the end of each year, individual performance is evaluated based on the NEO's performance objectives listed above, and the results of that evaluation are used in the determination of salary increases and the grant amount of all annual equity awards: restricted stock and stock options, which are time-based, and performance units granted under the long-term incentive plan, which are performance-based.

Elements of Compensation

Salary

Our philosophy with respect to salary is to provide a sufficient and stable source of fixed cash compensation that is competitive with the market to attract and retain a high caliber leadership team. NEO salaries, effective April 1, 2021 and April 1, 2022 were as follows:

Name	2021 Base Salary	2022 Base Salary
W. Rodney McMullen	\$1,355,000	\$1,400,000
Gary Millerchip	\$750,000	\$825,000
Stuart W. Aitken	\$885,000	\$925,000
Yael Cosset	\$750,000	\$825,000
Timothy A. Massa	\$800,000	\$850,000

2022 Annual Incentive Plan

The NEOs participate in a corporate performance-based annual cash incentive plan. The value of annual cash incentive awards that the NEOs earn each year is based upon Kroger's overall company performance compared to goals established by the Compensation Committee based on the business plan adopted by the Board of Directors.

A minimum level of performance must be achieved before any payout is earned, while a payout of up to 210% of target incentive potential can be achieved for superior performance on the corporate plan metrics. There are no guaranteed or minimum payouts; if none of the performance goals are achieved, then none of the incentive amount is earned, and no payout is made.

The annual cash incentive plan is designed to encourage decisions and behavior that drive the annual operating results and the long-term success of the Company. Kroger's success is based on a combination of factors, and accordingly the Compensation Committee believes that it is important to encourage behavior that supports multiple elements of our business strategy. The corporate annual cash incentive plan is a broad-based plan used across the Kroger enterprise. Approximately 53,000 associates are eligible to receive incentive payouts based all or in part on the incentive plan described below.

NEO target incentive potentials for fiscal years 2021 and 2022, were as follows:

Name	2021 Target Annual Incentive	2022 Target Annual Incentive
W. Rodney McMullen	\$2,500,000	\$2,800,000
Gary Millerchip	\$825,000	\$850,000
Stuart W. Aitken	\$825,000	\$850,000
Yael Cosset	\$825,000	\$850,000
Timothy A. Massa	\$650,000	\$775,000

2022 Annual Incentive Plan Metrics

Metric	Rationale for Use
Sales and Profit Grid, maximum payout of 200%	
ID Sales, excluding Fuel	<ul style="list-style-type: none"> Identical Sales (“ID Sales”) represent sales, excluding fuel, at our supermarkets that have been open without expansion or relocation for five full quarters, excluding supermarket fuel sales, plus sales growth at all other customer-facing non-supermarket businesses. We believe that ID Sales are the best measure of real growth of our sales across the enterprise. A key driver of our model is ID Sales growth.
Adjusted FIFO Operating Profit, including Fuel	<ul style="list-style-type: none"> This financial metric equals gross profit, excluding the LIFO charge, minus OG&A, minus rent, and minus depreciation and amortization. Adjusted FIFO Operating Profit, including fuel, is a key measure of company success as it tracks our earnings from operations, and it measures our day-to-day operational effectiveness. It is a useful measure to investors because it reflects the revenue and expense that a company can control.
Kicker, worth an additional 10%	
E-commerce Kicker	<ul style="list-style-type: none"> E-commerce sales are key drivers of our overall digital strategy – meeting customers where and how they choose to shop. E-commerce is a key component of our strategic pillar of Seamless. Up to an additional 10% is earned if Kroger achieves certain pre-determined goals with respect to e-commerce sales.

Potential payouts under the plan are based on Company performance on two primary metrics, ID Sales, excluding Fuel, and Adjusted FIFO Operating Profit, including Fuel. The performance objectives are shown in the grids below, with payouts interpolated for actual performance between levels.

The goals established by the Compensation Committee were as follows:

ID Sales, excluding Fuel and Adjusted FIFO Operating Profit, including Fuel

	ID Sales, excluding Fuel				
	0%	1.5%	3.0%	4.5%	6.0%
Adjusted FIFO Operating Profit, including Fuel (\$ in millions)	≥3,934	0	14	20	29
	≥4,134	20	65	80	95
	≥4,334	40	85	100	115
	≥4,534	70	105	120	135
	≥4,734	110	125	140	170
					200

2022 Annual Incentive Plan – Actual Results and Payout Percentage

Corporate Plan Metric	2022 Performance ⁽¹⁾	Payout
Identical Sales, excluding fuel	5.62%	192.40%
Adjusted FIFO Operating Profit, including fuel	\$5.08B	
Ecommerce Total Sales Kicker⁽²⁾		0%
Total Payout		192.40%

(1) See grid above.

(2) Up to an additional 10% would have been earned if Kroger had achieved a certain goal with respect to e-commerce. That challenging goal was established by the Compensation Committee but was not achieved. The goal is not disclosed because it is competitively sensitive.

Following the close of the 2022 fiscal year, the Compensation Committee reviewed Kroger’s performance against each of the metrics outlined above and determined the extent to which Kroger achieved those objectives. Our performance compared to the goals established by the Compensation Committee resulted in a payout of 192.40% of the participant’s incentive plan target for the NEOs, with the exception of Mr. Aitken.

Mr. Aitken’s annual bonus payout equaled 190.98% of his bonus potential because it included the corporate annual plan described above and a team metric as follows. The merchandising team metric measured supermarket ID sales excluding pharmacy and fuel, and supermarket selling gross dollars less shrink dollars for all departments excluding pharmacy and fuel.

	Payout Percentage	Weight
Corporate Annual Bonus Plan	192.40%	60%
Merchandising Team Metric	188.86%	40%
Total Earned	$(192.40\% \times 0.6) + (188.86\% \times 0.4\%) = 190.98\%$	

The Compensation Committee maintains the ability to reduce the annual cash incentive payout for all executive officers, including the NEOs, and the independent directors retain that discretion for the CEO’s incentive payout if they determine for any reason that the incentive payouts were not appropriate given their assessment of Company or individual performance. No adjustments were made to the incentive payout amount in 2022. The annual incentive plan is typically an all-cash plan. While performance was achieved at 192.40%, in light of macroeconomic conditions, including inflation, as well as the Compensation Committee’s desire to create ongoing alignment with shareholders and reward sustained performance beyond 2022, the Compensation Committee determined to structure the payout to the NEOs as follows: 150% in cash and the remaining 42.4% (41.0% for Mr. Aitken) in restricted stock vesting in one year.

As described above, the corporate annual incentive payout percentage is applied to each NEO’s incentive plan target which is determined by the Compensation Committee, and the independent directors in the case of the CEO. The actual amounts of performance-based annual incentive paid to the NEOs for 2022 are reported in the Summary Compensation Table in the “Non-Equity Incentive Plan Compensation” column and the “Stock Awards” column.

Long-Term Compensation Program

The Compensation Committee believes in the importance of providing an incentive to the NEOs to achieve the long-term goals established by the Board. As such, a majority of NEO compensation is dependent on the achievement of those goals. Long-term compensation promotes long-term value creation and discourages the over-emphasis of attaining short-term goals at the expense of long-term growth.

The long-term incentive program is structured to be a combination of performance- and time-based compensation that reflects elements of financial and common share performance to provide both retention value and alignment with company performance. The Compensation Committee determined that all long-term compensation would be equity-based as follows: 50% of equity granted under the program would be performance-based and the remaining 50% of equity would be time-based, consisting of 30% in restricted stock and 20% in stock options.

Each year, NEOs receive grants under the long-term compensation program, which is structured as follows:

- *Performance-Based (50% of NEO long-term target compensation)*
 - Long-term performance-based compensation is provided under a Long-Term Incentive Plan adopted by the Compensation Committee. The Committee adopts a new plan every year, measuring improvement on the Company's long-term goals over successive three-year periods. Accordingly, at any one time there are three plans outstanding, which are summarized below.
 - Under the Long-Term Incentive Plans, NEOs receive grants of equity called performance units. A target number of performance units based on level and individual performance is awarded to each participant at the beginning of the three-year performance period.
 - Payouts under the plan are contingent on the achievement of certain strategic performance and financial measures and incentivize recipients to promote long-term value creation and enhance shareholder wealth by supporting the Company's long-term strategic goals.
 - The payout percentage, based on the extent to which the performance metrics are achieved, is applied to the number of performance units awarded. Then, a modifier based on Relative Total Shareholder Return compared to the S&P 500 is applied, which can increase or decrease the payout.
 - Performance units are paid out in Kroger common shares based on actual performance, along with dividend equivalents for the performance period on the number of issued common shares.
- *Time-Based (50% of NEO long-term target compensation)*
 - Long-term time-based compensation consists of 20% stock options and 30% restricted stock, which are linked to common share performance, creating alignment between the NEOs' and our shareholders' interests. Grants vest ratably over four years.
 - Stock options have no initial value and recipients only realize benefits if the value of our common shares increases following the date of grant, further aligning the NEOs' and our shareholders' interests.

Amounts of long-term compensation awards issued and outstanding for the NEOs are set forth in the Executive Compensation Tables section.

Summary of Three Long-Term Incentive Plans Outstanding During 2022

With respect to our long-term performance-based compensation, in November 2019, Kroger committed to investors an 8 – 11% Total Shareholder Return (TSR) target over time. The Compensation Committee redesigned plan metrics to align with Kroger's long-term business plans and growth model that we communicated to shareholders. These metrics are the key elements in driving Kroger's TSR.

The Compensation Committee adopts a new Long-Term Incentive Plan each year, which provides for overlapping three-year performance periods. Additional detail regarding each of the three plans is provided below, and a summary of the design of the plans outstanding during 2022 is as follows:

	2020 – 2022 LTIP	2021 – 2023 LTIP	2022 – 2024 LTIP
Performance Units and Dividend Equivalents	Performance units are equity grants which are paid out in Kroger common shares, based on actual performance at the end of the 3-year performance period, along with dividend equivalents for the performance period on the number of issued common shares ultimately earned.		
Performance Metrics	<ul style="list-style-type: none"> • Total Sales without Fuel + Fuel Gallons; • Growth in Adjusted FIFO Operating Profit, including Fuel • Cumulative Adjusted Free Cash Flow; • Fresh Equity metric; and • Relative Total Shareholder Return modifier 	<ul style="list-style-type: none"> • Total Sales without Fuel + Fuel Gallons; • Value Creation Metric (iTSR) Percentage • Fresh Equity metric; and • Relative Total Shareholder Return modifier 	
Determination of Payout	The payout percentage, based on the extent to which the performance metrics are achieved, is applied to number of performance units awarded.		
Maximum Payout	125%	187.5%	187.5%
Payout Date	March 2023	March 2024	March 2025

2020-2022 and 2021-2023 Long-Term Incentive Plan – Metrics

Both the 2020 – 2022 and the 2021-2023 Long-Term Incentive Plans have the following components which support our long-term business plans, each accounting for 25% of the payout calculation:

Metric	Rationale for Use	Weighting
Total Sales without Fuel + Fuel Gallons	<ul style="list-style-type: none"> This metric represents total revenue dollars without fuel + the number of fuel gallons sold over the three-year term of the plan. It represents the important metric of top line growth of the business from all channels. 	25%
Growth in Adjusted FIFO Operating Profit, including Fuel	<ul style="list-style-type: none"> This financial metric equals gross profit, excluding the LIFO charge, minus OG&A, minus rent, and minus depreciation and amortization. Adjusted FIFO Operating Profit, including fuel, is a key measure of company success as it tracks our earnings from operations, and it measures our day-to-day operational effectiveness. It is a useful measure to investors because it reflects the revenue and expense that a company can control. It is particularly important to focus on growth of this financial measure over time. 	25%
Cumulative Adjusted Free Cash Flow	<ul style="list-style-type: none"> Adjusted Free Cash Flow is an adjusted free cash flow measure calculated as net cash provided by operating activities minus payments for property and equipment, including payments for lease buyout, plus or minus adjustments for certain items. It is an important measure for the business because it reflects the cash left over after the company pays for operating expenses and capital expenditures. 	25%
Fresh Equity metric	<ul style="list-style-type: none"> Fresh is a key element of how people decide where to shop. It drives trips and therefore delivers business results. Fresh is the core focus of how we differentiate and drive great engagement with customers and it will be a key driver of our growth. 	25%

After the calculation of the four metrics above, a modifier based on Relative Total Shareholder Return compared to the S&P 500 will be applied which can increase or decrease the payout, as follows, interpolated for actual results between thresholds:

TSR Relative to S&P 500	Modifier
25 th percentile	75%
50 th percentile	100%
75 th percentile	125%

The payout percentage, as modified by the Relative TSR modifier, will be applied to the number of performance units granted under the plan to determine the payout amount. The maximum payout under the 2020-2022 Long-Term Incentive Plan is 125% and the maximum payout under the 2021-2023 Long Term Incentive Plan is 187.5% as further described below.

2020-2022 Long-Term Incentive Plan – Results and Payout

The results and payout of the 2020-2022 Long-Term Incentive Plan are as follows.

Metric	Performance	Goal	Payout Percentage
Total Sales without Fuel + Fuel Gallons	\$134.3B	\$123.6B	100%
Growth in Adjusted FIFO Operating Profit, including Fuel	\$5.1B	\$3.47B	100%
Cumulative Adjusted Free Cash Flow	\$9.6B	\$5.7B	100%
Fresh Equity metric	43.3	45.4	0%
Payout Before Modifier			75%
Relative TSR Modifier	75 th Percentile	>50 th Percentile	125%
Total Payout			93.75%

The NEOs were issued the number of Kroger common shares equal to 93.75% of the number of performance units awarded to that executive, along with dividend equivalents for the three-year performance period on the number of issued common shares.

The dividend equivalents paid on common shares earned under the 2020 – 2022 Long-Term Incentive Plan are reported in the “All Other Compensation” column of the Summary Compensation Table and footnote 5 to that table, and the common shares issued under the plan are reported in the 2022 Option Exercises and Stock Vested Table and footnote 2 to that table.

The annual and long-term performance-based compensation awards described herein were made pursuant to our 2019 Long-Term Incentive Plan, which was approved by our shareholders in June 2019, and the 2019 Amended and Restated Long-Term Incentive Plan, which was approved by our shareholders in June 2022.

Additional Features of the 2021-2023 Long-Term Incentive Plan

Going into 2021, there were an extraordinary number and degree of unknowns that could have impacted our financial results. The Compensation Committee considered, among other factors, the course of the pandemic, including new COVID variants, availability and outcomes of vaccine programs, continuing sales trends, food at home and food away from home trends, inflation/deflation, and other potential market influencing events. To account for these unknowns, the Compensation Committee designed the 2021 long-term plan with an incremental goal setting approach due to our inability to forecast reliable long-term performance targets against the background of the market uncertainty at the time. The Committee designed the plan to take into account the extraordinary uncertainties going into the three-year plan, while aligning to our identical sales and operating profit growth and productivity improvement goals, all in support of our long-term value creation model. Under the incremental goal setting approach, the plan was designed with clearly defined financial performance goals for 2021, and a mechanism for setting the 2022-2023 goals based on actual 2021 results.

This approach does not change the timing of the payout. The payout for the three-year plan will be calculated following the close of fiscal year 2023 and, if earned, will be paid out to participants in the form of common shares, and corresponding accrued dividend equivalents, in March of 2024.

For the 2021-2023 Long-Term Incentive Plan, the Compensation Committee aligned the plan with market practices, increasing the maximum payout potential on the four metrics from 100% to 150%. The highest payout from the four metrics alone equals 100%. However, the payout may exceed 100%, if for years 2 and 3 of the plan: (1) the Total Sales without Fuel + Fuel Gallons metric, the Growth in Adjusted FIFO Operating Profit, including Fuel, metric, and the Cumulative Adjusted Free Cash Flow metric all achieve 100%, and (2) the 2-year compound annual growth rate of Total Sales without Fuel + Fuel Gallons exceeds 3.5%. The plan payout will increase incrementally from 100%, up to 150% maximum if the 2-year compound annual growth rate on the Total Sales without Fuel + Fuel Gallons metric is 5.0%. With the potential application of the relative TSR modifier, the total maximum payout would be 187.5%.

2022 – 2024 Long-Term Incentive Plan Metrics

The 2022-2024 Long-Term Incentive Plan metrics have been designed to reflect commitments made to our investors and other stakeholders regarding long-term sales growth, our Value Creation algorithm (through intrinsic Total Shareholder Return, or iTSR) and our commitment to Fresh as a strategic differentiator. The plan also includes a modifier based on our shareholder return relative to the S&P 500 shareholder return.

Metric	Rationale for Use	Weighting
Total Sales without Fuel + Fuel Gallons	<ul style="list-style-type: none"> This metric represents total revenue dollars without fuel + the number of fuel gallons sold over the three-year term of the plan. It represents the important metric of top line growth of the business from all channels. 	25%
Value Creation Metric (iTSR) Percentage	<ul style="list-style-type: none"> This financial metric equals Adjusted Earnings per diluted share (EPS) growth plus Dividend Yield. 	50%
Fresh Equity metric	<ul style="list-style-type: none"> Fresh is a key element of how people decide where to shop. It drives trips and therefore delivers business results. Fresh is the core focus of how we differentiate and drive great engagement with customers and it will be a key driver of our growth. 	25%

The highest payout from the three metrics alone equals 100%. However, the payout may exceed 100% if: (1) both the Total Sales without Fuel + Fuel Gallons metric and the iTSR metric achieve 100%, and (2) the 3-year compound annual growth rate of Total Sales without Fuel + Fuel Gallons exceeds 3.5%. The plan payout will increase incrementally from 100%, up to 150% maximum if the 3-year compound annual growth rate on the Total Sales without Fuel + Fuel Gallons metric is 5.0%.

After the calculation described above, a modifier based on Relative Total Shareholder Return compared to the S&P 500 will be applied, as follows, interpolated for actual results between the 25th percentile and 75th percentile thresholds:

TSR Relative to S&P 500	Modifier
25 th percentile	75%
50 th percentile	100%
75 th percentile	125%

The payout percentage, as modified by the Relative TSR modifier, will be applied to the number of performance units granted under the plan to determine the payout amount. If all three metrics are achieved at the maximum level and the Relative Total Shareholder Return modifier is maximized, the total plan payout would be 187.5%.

Stock Options and Restricted Stock

Stock options and restricted stock continue to play an important role in rewarding NEOs for the achievement of long-term business objectives and providing incentives for the creation of shareholder value. Awards based on Kroger's common shares are granted annually to the NEOs. Kroger historically has distributed time-based equity awards widely, aligning the interests of associates with interests of shareholders.

The options permit the holder to purchase Kroger common shares at an option price equal to the closing price of Kroger common shares on the date of the grant. Options are granted only on one of the four dates of Board meetings conducted after Kroger's public release of its quarterly earnings results.

The Compensation Committee determines the vesting schedule for stock options and restricted stock. During 2022, the Compensation Committee granted to the NEOs stock options and restricted stock, each with a four-year ratable vesting schedule.

Restricted stock awards are reported in the "Stock Awards" column of the Summary Compensation Table and footnote 1 to the table and the 2022 Grants of Plan Based Awards Table. Stock option awards are reported in the "Option Awards" column of the Summary Compensation Table and the "All other Option Awards" column of the 2022 Grants of Plan Based Awards Table.

Retirement and Other Benefits

Kroger maintains several defined benefit and defined contribution retirement plans for its associates. The NEOs participate in one or more of these plans, as well as one or more excess plans designed to make up the shortfall in retirement benefits created by limitations under the Internal Revenue Code (the “Code”) on benefits to highly compensated individuals under qualified plans. Additional details regarding certain retirement benefits available to the NEOs can be found below in footnote 5 to the Summary Compensation Table and the 2022 Pension Benefits Table and the accompanying narrative.

Kroger also maintains an executive deferred compensation plan in which the CEO has elected to participate. This plan is a nonqualified plan under which participants can elect to defer up to 100% of their cash compensation each year. Additional details regarding our nonqualified deferred compensation plans available to the NEOs can be found below in the 2022 Nonqualified Deferred Compensation Table and the accompanying narrative.

Kroger also maintains The Kroger Co. Employee Protection Plan (“KEPP”), which covers all of our management associates who are classified as exempt under the federal Fair Labor Standards Act and certain administrative or technical support personnel who are not covered by a collective bargaining agreement, with at least one year of service. KEPP has a double trigger change in control provision, and it provides for severance benefits and extended Kroger-paid health care, as well as the continuation of other benefits as described in the plan, when an associate is actually or constructively terminated without cause within two years following a change in control of Kroger (as defined in KEPP). Participants are entitled to severance pay of up to 24 months’ salary and annual incentive target. The actual amount is dependent upon pay level and years of service. KEPP can be amended or terminated by the Board at any time prior to a change in control.

Stock option and restricted stock grant agreements with award recipients provide that those awards “vest,” with options becoming immediately exercisable, and restrictions on restricted stock lapsing upon a change in control as described in the grant agreements, but only if an associate is actually or constructively terminated without cause within two years following a change in control of Kroger (as defined in the grant agreement, and consistent with KEPP).

None of the NEOs are party to an employment agreement.

Perquisites

Our NEOs receive limited perquisites as the Compensation Committee does not believe that it is necessary for the attraction or retention of management talent to provide executives a substantial amount of compensation in the form of perquisites.

Process for Establishing Executive Compensation

The Compensation Committee of the Board has the primary responsibility for establishing the compensation of our executive officers, including the NEOs, with the exception of the CEO. The Compensation Committee’s role regarding the CEO’s compensation is to make recommendations to the independent members of the Board; those members of the Board establish the CEO’s compensation.

The Compensation Committee directly engaged Korn Ferry as a compensation consultant to advise the Compensation Committee in the design of compensation for executive officers and to advise with respect to the unique circumstances of the 2022 compensation cycle.

Korn Ferry conducted an annual competitive assessment of executive positions at Kroger for the Compensation Committee. The assessment is one of several factors, as described above, on which the Compensation Committee determines compensation. The consultant assessed:

- base salary;
- target performance-based annual cash incentive;
- target annual cash compensation (the sum of salary and annual cash incentive potential);
- long-term incentive compensation, comprised of performance units, stock options and restricted stock; and
- total direct compensation (the sum of target annual cash compensation and long-term compensation).

In addition to the factors identified above, the consultant also reviewed actual payout amounts against the targeted amounts.

The consultant compared these elements against those of other companies in a group of publicly traded companies selected by the Compensation Committee. For 2022, our peer group consisted of:

Albertsons	CVS Health	Sysco
AmerisourceBergen	Home Depot	Target
Best Buy	Johnson & Johnson	TJX Companies
Cardinal Health	Lowe's	Walgreens Boots Alliance
Costco Wholesale	Procter & Gamble	Walmart

The make-up of the compensation peer group is reviewed annually and modified as circumstances warrant. In addition, the Compensation Committee considered supplemental data provided by its independent compensation consultant from “general industry” companies, a representation the Fortune 40, excluding financial services companies. This data provided reference points, particularly for senior executive positions where competition for talent extends beyond the retail sector. The peer group includes a combination of food and drug retailers, other large retailers based on revenue size, and large consumer-facing companies. Median 2022 revenue for the peer group was \$119.3 billion, compared to our 2022 revenue of \$148.3 billion.

Considering the size of Kroger in relation to other peer group companies, the Compensation Committee believes that salaries paid to our NEOs should be competitively positioned relative to amounts paid by peer group companies for comparable positions. The Compensation Committee also aims to provide an annual cash incentive potential to our NEOs around the market median. Actual payouts may be as low as zero if performance does not meet the baselines established by the Compensation Committee while superior financial performance is rewarded with compensation falling above the median.

The independent members of the Board have the exclusive authority to determine the amount of the CEO’s compensation. In setting total compensation, the independent directors consider the median compensation of the peer group’s CEOs. With respect to the annual incentive plan, the independent directors make two determinations: (1) the annual cash incentive potential that will be multiplied by the corporate annual cash incentive payout percentage earned that is applicable to the NEOs and (2) the annual cash incentive amount paid to the CEO by retaining discretion to reduce the annual cash incentive percentage payout the CEO would otherwise receive under the formulaic plan. The independent directors also retain discretion to determine the form of payout, to include a portion in equity in place of cash.

The Compensation Committee performs the same function and exercises the same authority as to the other NEOs. In its annual review of compensation for the NEOs, the Compensation Committee:

- Conducts an annual review of all components of compensation, quantifying total compensation for the NEOs including a summary for each NEO of salary; performance-based annual cash incentive; and long-term performance-based equity comprised of performance units, stock options and restricted stock.
- Considers internal pay equity at Kroger to ensure that the CEO is not compensated disproportionately. The Compensation Committee has determined that the compensation of the CEO and that of the other NEOs bears a reasonable relationship to the compensation levels of other executive positions at Kroger taking into consideration performance and differences in responsibilities.
- Reviews a report from the Compensation Committee’s compensation consultant reflecting a comprehensive review of each element of pay, both annual and long-term and comparing NEO compensation with that of other companies, including both our peer group of competitors and a larger general industry group, to ensure that the Compensation Committee’s objectives of competitiveness are met.
- Takes into account a recommendation from the CEO for salary, annual cash incentive potential and long-term compensation awards for each of the senior officers including the other NEOs. The CEO’s recommendation takes into consideration the objectives established by and the reports received by the Compensation Committee as well as his assessment of individual job performance and contribution to our management team.

The Compensation Committee does not make use of a formula, but both qualitatively and quantitatively considers each of the factors identified above in setting compensation.

Stock Ownership Guidelines

To more closely align the interests of our officers and directors with your interests as shareholders, the Board has adopted stock ownership guidelines. These guidelines require independent directors, executive officers, and other key executives to acquire and hold a minimum dollar value of Kroger common shares as set forth below:

Position	Multiple
Chief Executive Officer	5 times base salary
President and Chief Operating Officer	4 times base salary
Executive Vice Presidents and Senior Vice Presidents	3 times base salary
Independent Directors	5 times annual base cash retainer

All covered individuals are expected to achieve the target level within five years of appointment to their positions. Until the requirements are met, covered individuals, including the NEOs, must hold 100% of common shares issued pursuant to performance units earned, shares received upon the exercise of stock options and upon the vesting of restricted stock, except those necessary to pay the exercise price of the options and/or applicable taxes, and must retain all Kroger common shares unless the disposition is approved in advance by the CEO, or by the Board or Compensation Committee for the CEO.

Executive Compensation Recoupment Policy (Clawback)

Under the 2019 Amended and Restated Long-Term Incentive Plan (the “2019 Plan”), unless an award agreement provides otherwise, if a participant’s employment or service is terminated for cause, or if after termination the Compensation Committee determines either that (i) prior to termination, the participant engaged in an act or omission that would have warranted termination for cause or (ii) after termination, the participant violates any continuing obligation or duty of the participant with respect to Kroger, any gain realized by the participant from the exercise, vesting or payment of any award may be cancelled, forfeited or recouped in the sole discretion of the Committee. Under the 2019 Plan, any gain realized by the participant from the exercise, vesting or payment of any award may also be recouped if, within one year after such exercise, vesting or payment, (i) a participant is terminated for cause, (ii) the Compensation Committee determines that the participant is subject to recoupment pursuant to any Kroger policy, or (iii) after a participant’s termination for any reason, the Compensation Committee determines either that (1) prior to termination the participant engaged in an act or omission that would have warranted termination for cause, or (2) after termination the participant violates any continuing obligation or duty of the participant with respect to Kroger. Unless otherwise defined under 2019 Plan award agreement, “cause” has the meaning as defined in The Kroger Co. Employee Protection Plan, as amended from time to time.

Additionally, if an award based on financial statements that are subsequently restated in a way that would decrease the value of such award, the participant will, to the extent not otherwise prohibited by law, upon the written request of Kroger, forfeit and repay to Kroger the difference between what was received and what should have been received based on the accounting restatement, which will be repaid in accordance with any applicable Kroger policy or applicable law, including Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act and any rules or regulations adopted thereunder. We intend our policy to comply with the NYSE listing rules regarding recoupment of incentive compensation when those rules become effective. Kroger also has a recoupment policy, which provides that if a material error of facts results in the payment to an executive officer at the level of Group Vice President or higher of an annual cash incentive or a long-term cash incentive in an amount higher than otherwise would have been paid, as determined by the Compensation Committee, then the officer, upon demand from the Compensation Committee, will reimburse Kroger for the amounts that would not have been paid if the error had not occurred. This recoupment policy applies to those amounts paid by Kroger within 36 months prior to the detection and public disclosure of the error. In enforcing the policy, the Compensation Committee will take into consideration all factors that it deems appropriate, including:

- the materiality of the amount of payment involved;
- the extent to which other benefits were reduced in other years as a result of the achievement of performance levels based on the error;
- individual officer culpability, if any; and
- other factors that should offset the amount of overpayment.

Prohibition on Hedging and Pledging

The Board adopted a policy prohibiting Kroger directors and executive officers from engaging, directly or indirectly, in the pledging of, hedging transactions in, or short sales of, Kroger securities.

Section 162(m) of the Internal Revenue Code

Prior to the effective date of the Tax Cuts and Jobs Act of 2017, Section 162(m) of the Code generally disallowed a federal tax deduction to public companies for compensation greater than \$1 million paid in any tax year to specified executive officers unless the compensation was “qualified performance-based compensation” under that section. Pursuant to the Tax Cuts and Jobs Act of 2017, the exception for “qualified performance-based compensation” under Section 162(m) of the Code was eliminated with respect to all remuneration in excess of \$1 million other than qualified performance-based compensation pursuant to a written binding contract in effect on November 2, 2017 or earlier which was not modified in any material respect on or after such date (the legislation providing for such transition rule, the “Transition Rule”).

As a result, performance-based compensation that the Compensation Committee structured with the intent of qualifying as performance-based compensation under Section 162(m) prior to the change in the law may or may not be fully deductible, depending on the application of the Transition Rule. In addition, compensation arrangements structured following the change in law will be subject to the Section 162(m) limitation (without any exception for performance-based compensation). Consistent with its past practice, the Committee will continue to retain flexibility to design compensation programs that are in the best long-term interests of the Company and our shareholders, with deductibility of compensation being one of a variety of considerations taken into account.

Compensation Committee Report

The Compensation Committee has reviewed and discussed with Kroger’s management the Compensation Discussion and Analysis contained in this proxy statement. Based on its review and discussions with management, the Compensation Committee has recommended to the Board that the Compensation Discussion and Analysis be included in Kroger’s proxy statement and incorporated by reference into its Annual Report on Form 10-K.

Compensation Committee:

Clyde R. Moore, Chair
Amanda Sourry
Mark Sutton

Executive Compensation Tables

Summary Compensation Table

The following table and footnotes provide information regarding the compensation of the NEOs for the fiscal years presented.

Name and Principal Position	Fiscal Year	Salary (\$)	Bonus (\$)	Stock Awards (\$) ⁽¹⁾	Option Awards (\$) ⁽²⁾	Non-Equity Incentive Plan Compensation (\$) ⁽³⁾	Change in Pension Value and Nonqualified Deferred Compensation Earnings (\$) ⁽⁴⁾	All Other Compensation (\$) ⁽⁵⁾	Total (\$)
W. Rodney McMullen Chairman and Chief Executive Officer	2022	1,388,495		10,367,639	2,299,636	4,130,769	175,750	847,554	19,209,843
	2021	1,351,358		8,800,023	2,199,162	4,647,750	159,640	1,010,797	18,168,730
	2020	1,341,060	769,231	10,900,041	2,101,581	4,888,929	1,795,455	577,277	22,373,574
Gary Millerchip Senior Vice President and Chief Financial Officer	2022	809,879		3,358,792	749,879	1,269,231		265,342	6,453,123
	2021	726,815		2,800,022	699,735	1,498,006		261,842	5,986,420
	2020	601,050	312,426	2,498,469	540,409	1,092,959		122,377	5,167,690
Stuart W. Aitken Senior Vice President and Chief Merchandising & Marketing Officer	2022	915,632		3,346,838	749,879	1,269,231		277,694	6,559,274
	2021	878,387		2,800,022	699,735	1,527,013		300,214	6,205,371
	2020	849,484	323,077	3,010,038	540,409	1,586,363		177,900	6,487,271
Yael Cosset Senior Vice President and Chief Information Officer	2022	809,879		3,358,792	749,879	1,269,231		267,548	6,455,329
	2021	739,685		2,800,022	699,735	1,498,006		265,342	6,002,790
	2020	689,567	312,426	2,998,473	540,409	1,338,239		121,168	6,000,282
Timothy A. Massa Senior Vice President and Chief People Officer	2022	839,113		2,320,484	499,919	1,133,654		208,794	5,001,964
	2021	780,914		1,760,033	439,836	1,194,114		210,350	4,385,247

(1) Amounts reflect the grant date fair value of restricted stock and performance units granted each fiscal year, as computed in accordance with FASB ASC Topic 718. The following table reflects the value of each type of award granted to the NEOs in 2022:

Name	Restricted Stock	Performance Units
Mr. McMullen	\$4,617,648	\$5,749,991
Mr. Millerchip	\$1,483,785	\$1,875,007
Mr. Aitken	\$1,471,831	\$1,875,007
Mr. Cosset	\$1,483,785	\$1,875,007
Mr. Massa	\$1,070,498	\$1,249,986

The Restricted Stock values include the annual grant of restricted stock in 2022 as well as the grant in 2023, which was granted with respect to a portion of the 2022 Annual Incentive Plan as further described in the Compensation Discussion and Analysis and in the Grants of Plan Based Awards Table.

The grant date fair value of the performance units reflected in the stock awards column and in the table above is computed based on the probable outcome of the performance conditions as of the grant date. This amount is consistent with the estimate of aggregate compensation cost to be recognized by the Company over the three-year performance period of the award determined as of the grant date under FASB ASC Topic 718, excluding the effect of estimated forfeitures. The assumptions used in calculating the valuations are set forth in Note 11 to the consolidated financial statements in Kroger's Form 10-K for fiscal year 2022.

Assuming that the highest level of performance conditions is achieved, the aggregate fair value of the 2022 performance unit awards at the grant date is as follows:

Name	Value of Performance Units Assuming Maximum Performance
Mr. McMullen	\$10,781,233
Mr. Millerchip	\$3,515,638
Mr. Aitken	\$3,515,638
Mr. Cosset	\$3,515,638
Mr. Massa	\$2,343,724

- (2) These amounts represent the aggregate grant date fair value of option awards computed in accordance with FASB ASC Topic 718. The assumptions used in calculating the valuations are set forth in Note 11 to the consolidated financial statements in Kroger's Form 10-K for fiscal year 2022.
- (3) Non-equity incentive plan compensation earned for 2022 consists of amounts earned under the 2022 Annual Incentive Plan. The 2022 Annual Incentive Plan was calculated at 192.40% and was applied to each NEO's annual incentive plan target, except for Mr. Aitken. Mr. Aitken's payout of 190.98% of his annual incentive target was calculated based on the Annual Incentive Plan metrics and the merchandising team metrics. For the 2022 Annual Incentive Plan, the payout consisted of 150% cash and the remainder in restricted shares which are included in footnote (1) above. See "2022 Annual Incentive Plan Results" in the Compensation Discussion and Analysis for more information on this plan.
- (4) The amount reported consists of preferential earnings on nonqualified deferred compensation, which only applies to Mr. McMullen. The remainder of the NEOs do not participate in a defined benefit pension plan or in a nonqualified deferred compensation plan.

Change in Pension Value. The actuarial present value of Mr. McMullen's accumulated pension benefits decreased by \$4,395,890. This change in value of accumulated pension benefits is not included in the Summary Compensation Table because the value decreased. The value of accrued benefits decreased primarily due to the change in value of the benefit due to aging. The Company froze the compensation and service periods used to calculate pension benefits for active associates who participate in the affected pension plans, including Mr. McMullen's, as of December 31, 2019. Beginning January 1, 2020, the affected active associates will no longer accrue additional benefits for future service and eligible compensation received under these plans. Please see the 2022 Pension Benefits section for further information regarding the assumptions used in calculating pension benefits.

Preferential Earnings on Nonqualified Deferred Compensation. Mr. McMullen participates in The Kroger Co. Executive Deferred Compensation Plan (the "Deferred Compensation Plan") and received preferential earnings of \$175,750. Under the plan, deferred compensation earns interest at a rate representing Kroger's cost of ten-year debt, as determined by the CFO, and approved by the Compensation Committee prior to the beginning of each deferral year. For each participant, a separate deferral account is created each year and the interest rate established for that year is applied to that deferral account until the deferred compensation is paid out. If the interest rate established by Kroger for a particular year exceeds 120% of the applicable federal long-term interest rate that corresponds most closely to the plan rate, the amount by which the plan rate exceeds 120% of the corresponding federal rate is deemed to be above-market or preferential. For each of the deferral accounts in which the plan rate is deemed to be above-market, Kroger calculates the amount by which the actual annual earnings on the account exceed what the annual earnings would have been if the account earned interest at 120% of the corresponding federal rate, and discloses those amounts as preferential earnings.

- (5) Amounts reported in the "All Other Compensation" column for 2022 include Company contributions to defined contribution retirement plans, dividend equivalents paid on earned performance units, and dividends paid on unvested restricted stock. In 2022, the total amount of perquisites and personal benefits for each of the NEOs was less than \$10,000. The following table identifies the value of each element of All Other Compensation:

Name	Retirement Plan Contributions ^(a)	Payment of Dividend Equivalents on Earned Performance Units	Dividends Paid on Unvested Restricted Stock
Mr. McMullen	\$ 195,500	\$ 405,648	\$ 246,406
Mr. Millerchip	\$ 89,457	\$ 104,310	\$ 71,575
Mr. Aitken	\$ 99,188	\$ 104,310	\$ 74,196
Mr. Cosset	\$ 90,407	\$ 104,310	\$ 72,831
Mr. Massa	\$ 85,923	\$ 77,267	\$ 45,604

(a) *Retirement plan contributions.* The Company makes automatic and matching contributions to NEOs' accounts under the applicable defined contribution plan on the same terms and using the same formulas as other participating associates. The Company also makes contributions to NEOs' accounts under the applicable defined contribution plan restoration plan, which is intended to make up the shortfall in retirement benefits caused by the limitations on benefits to highly compensated individuals under the defined contribution plans in accordance with the Code.

2022 Grants of Plan-Based Awards

The following table provides information about equity and non-equity incentive awards granted to the NEOs in 2022.

Name	Grant Date	Estimated Possible Payouts Under Non-Equity Incentive Plan Awards		Estimated Future Payouts Under Equity Incentive Plan Awards		All Other Stock Awards: Number of Shares of Stock or Units (#) ⁽³⁾	All Other Option Awards: Number of Securities Underlying Options (#) ⁽⁴⁾	Exercise or Base Price of Option Awards (\$/Sh)	Grant Date Fair Value of Stock and Option Awards
		Target (\$) ⁽¹⁾	Maximum (\$) ⁽¹⁾	Target (#) ⁽²⁾	Maximum (#) ⁽²⁾				
W. Rodney McMullen		2,800,000	5,880,000			60,431			
	3/10/2022						142,858	\$57.09	3,450,006
	3/10/2022								2,299,636
	3/10/2022			100,718	188,846				5,749,991
Gary Millerchip		850,000	1,785,000			24,712			1,167,642
	3/10/2022					19,706			1,125,016
	3/10/2022						46,584	\$57.09	749,879
	3/10/2022			32,843	61,581				1,875,007
Stuart W. Aitken		850,000	1,785,000			7,593			358,769
	3/10/2022					19,706			1,125,016
	3/10/2022						46,584	\$57.09	749,879
	3/10/2022			32,843	61,581				1,875,007
Yael Cosset		850,000	1,785,000			7,340			346,815
	3/10/2022					19,706			1,125,016
	3/10/2022						46,584	\$57.09	749,879
	3/10/2022			32,843	61,581				1,875,007
Timothy A. Massa		775,000	1,627,500			7,593			358,769
	3/10/2022					13,138			750,048
	3/10/2022						31,056	\$57.09	499,919
	3/10/2022			21,895	41,053				1,249,986
	3/9/2023					6,782			320,450

- (1) These amounts relate to the 2022 performance-based annual incentive plan. The amount listed under “Target” represents the annual incentive potential of the NEO. By the terms of the plan, payouts are limited to no more than 210% of a participant’s annual incentive potential; accordingly, the amount listed under “Maximum” is 210% of that officer’s annual incentive potential amount. The amounts actually earned under this plan were paid out in March 2023; are described in the Compensation Discussion and Analysis; and are included in the Summary Compensation Table for 2022 in the “Non-Equity Incentive Plan Compensation” column and the “Stock Awards” column, and described in footnotes 1 and 3 to that table. See “2022 Annual Cash Incentive Plan” in CD&A for more information about the program for 2022.
- (2) These amounts represent performance units awarded under the 2022 Long-Term Incentive Plan, which covers performance during fiscal years 2022, 2023, and 2024. The amount listed under “Maximum” represents the maximum number of common shares that can be earned by the NEO under the award or 187.5% of the target amount. This amount is consistent with the estimate of aggregate compensation cost to be recognized by the Company over the three-year performance period of the award determined as of the grant date under FASB ASC Topic 718, excluding the effect of estimated forfeitures. The grant date fair value reported in the last column is based on the probable outcome of the performance conditions as of the grant date. The aggregate grant date fair value of these awards is included in the Summary Compensation Table for 2022 in the “Stock Awards” column and described in footnote 1 to that table.
- (3) These amounts represent the number of shares of restricted stock granted in 2022 as well as the number of shares of restricted stock granted in 2023 with respect to a portion of the 2022 Annual Incentive Plan. The aggregate grant date fair value reported in the last column is calculated in accordance with FASB ASC Topic 718. The aggregate grant date fair value of these awards is included in the Summary Compensation Table for 2022 in the “Stock Awards” column and described in footnote 1 to that table.
- (4) These amounts represent the number of stock options granted in 2022. Options are granted with an exercise price equal to the closing price of Kroger common shares on the grant date. The aggregate grant date fair value reported in the last column is calculated in accordance with FASB ASC Topic 718. The aggregate grant date fair value of these awards is included in the Summary Compensation Table for 2022 in the “Option Awards” column and described in footnote 2 to that table.

The Compensation Committee, and the independent members of the Board in the case of the CEO, established the incentive potential amounts for the performance-based annual incentive awards (shown in this table as “Target”) and the number of performance units awarded for the long-term incentive awards (shown in this table as “Target”). Amounts are payable to the extent that Kroger’s actual performance meets specific performance metrics established by the Compensation Committee at the beginning of the performance period. There are no guaranteed or minimum payouts; if none of the performance metrics are achieved, then none of the award is earned and no payout is made. As described in the CD&A, actual earnings under the performance-based annual incentive plan may exceed the target amount if the Company’s performance exceeds the performance goals, but are limited to 210% of the target amount. The potential values for performance units awarded under the 2022-2024 Long-Term Incentive Plan are more particularly described in the CD&A.

The annual restricted stock and nonqualified stock options awards granted to the NEOs vest in equal amounts on each of the first four anniversaries of the grant date, so long as the officer remains a Kroger associate, except for the restricted stock granted in March 2023 with respect to a portion of the 2022 Annual Incentive Plan which vests on the first anniversary of the grant date. Any dividends declared on Kroger common shares are payable on unvested restricted stock.

2022 Outstanding Equity Awards at Fiscal Year-End

The following table provides information about outstanding equity-based incentive compensation awards for the NEOs as of the end of 2022. The vesting schedule for each award is described in the footnotes to this table. The market value of unvested restricted stock and unearned performance units is based on the closing price of Kroger's common shares of \$45.05 on January 27, 2023, the last trading day of fiscal 2022.

Name	Option Awards					Stock Awards				Equity Incentive Plan Awards: Market or Payout Value of Unearned Shares, Units or Other Rights That Have Not Vested (\$)
	Number of Securities Underlying Unexercised Options Exercisable (#)	Number of Securities Underlying Unexercised Options Unexercisable (#)	Option Exercise Price (\$)	Option Expiration Date	Number of Shares or Units of Stock That Have Not Vested (#)	Market Value of Shares or Units of Stock That Have Not Vested (\$)	Plan Awards: Number of Unearned Shares, Units or Other Rights That Have Not Vested (#)			
W. Rodney McMullen	194,880		\$18.88	7/15/2023	31,819 ⁽⁶⁾	\$1,433,446				
	300,000		\$24.67	7/15/2024	54,087 ⁽⁷⁾	\$2,436,619				
	235,415		\$38.33	7/15/2025	70,836 ⁽⁸⁾	\$3,191,162				
	358,091		\$37.48	7/13/2026	60,431 ⁽⁹⁾	\$2,722,417				
	573,127		\$22.92	7/13/2027			118,060 ⁽¹²⁾	\$5,644,448		
	349,293		\$28.05	7/13/2028			100,718 ⁽¹³⁾	\$4,841,514		
	261,194	87,065 ⁽¹⁾	\$24.75	3/14/2029						
	164,577	164,577 ⁽²⁾	\$29.12	3/12/2030						
	65,243	195,730 ⁽³⁾	\$34.94	3/11/2031						
		142,858 ⁽⁴⁾	\$57.09	3/10/2032						
Gary Millerchip	9,600		\$24.67	7/15/2024	6,061 ⁽⁶⁾	\$273,048				
	13,992		\$38.33	7/15/2025	5,945 ⁽¹⁰⁾	\$267,822				
	27,972		\$37.48	7/13/2026	13,908 ⁽⁷⁾	\$626,555				
	34,905		\$22.92	7/13/2027	22,539 ⁽⁸⁾	\$1,015,382				
	30,251		\$28.05	7/13/2028	19,706 ⁽⁹⁾	\$887,755				
	66,335	16,584 ⁽¹⁾	\$24.75	3/14/2029			37,565 ⁽¹²⁾	\$1,795,981		
	38,337	12,779 ⁽⁵⁾	\$22.08	7/15/2029			32,843 ⁽¹³⁾	\$1,578,763		
	42,320	42,320 ⁽²⁾	\$29.12	3/12/2030						
	20,759	62,278 ⁽³⁾	\$34.94	3/11/2031						
		46,584 ⁽⁴⁾	\$57.09	3/10/2032						
Stuart W. Aitken	11,149		\$22.92	7/13/2027	7,576 ⁽⁶⁾	\$341,299				
	33,124		\$28.05	7/13/2028	13,908 ⁽⁷⁾	\$626,555				
	78,773	20,730 ⁽¹⁾	\$24.75	3/14/2029	5,127 ⁽¹¹⁾	\$230,971				
	42,320	42,320 ⁽²⁾	\$29.12	3/12/2030	22,539 ⁽⁸⁾	\$1,015,382				
	20,759	62,278 ⁽³⁾	\$34.94	3/11/2031	19,706 ⁽⁹⁾	\$887,755				
		46,584 ⁽⁴⁾	\$57.09	3/10/2032			37,565 ⁽¹²⁾	\$1,795,981		
							32,843 ⁽¹³⁾	\$1,578,763		
Yael Cosset	10,611		\$28.83	3/9/2027	6,061 ⁽⁶⁾	\$273,048				
	8,704		\$22.92	7/13/2027	13,908 ⁽⁷⁾	\$626,555				
	29,499		\$28.05	7/13/2028	5,127 ⁽¹¹⁾	\$230,971				
	66,335	16,584 ⁽¹⁾	\$24.75	3/14/2029	22,539 ⁽⁸⁾	\$1,015,382				
	42,320	42,320 ⁽²⁾	\$29.12	3/12/2030	19,706 ⁽⁹⁾	\$887,755				
	20,759	62,278 ⁽³⁾	\$34.94	3/11/2031			37,565 ⁽¹²⁾	\$1,795,981		
		46,584 ⁽⁴⁾	\$57.09	3/10/2032			32,843 ⁽¹³⁾	\$1,578,763		

Timothy A. Massa	46,000	\$24.67	7/15/2024	4,546 ⁽⁶⁾	\$204,797		
	29,970	\$38.33	7/15/2025	10,303 ⁽⁷⁾	\$464,150		
	25,889	\$37.48	7/13/2026	14,168 ⁽⁸⁾	\$638,268		
	45,065	\$22.92	7/13/2027	13,138 ⁽⁹⁾	\$591,867		
	40,561	\$28.05	7/13/2028			23,612 ⁽¹²⁾	\$1,128,891
	53,898	12,438 ⁽¹⁾	\$24.75	3/14/2029		21,895 ⁽¹³⁾	\$1,052,493
	31,348	31,348 ⁽²⁾	\$29.12	3/12/2030			
	13,048	39,147 ⁽³⁾	\$34.94	3/11/2031			
		31,056 ⁽⁴⁾	\$57.09	3/10/2032			

(1) Stock options vest on 3/14/2023.

(2) Stock options vest in equal amounts on 3/12/2023 and 3/12/2024.

(3) Stock options vest in equal amounts on 3/11/2023, 3/11/2024, and 3/11/2025.

(4) Stock options vest in equal amounts on 3/10/2023, 3/10/2024, 3/10/2025, and 3/10/2026.

(5) Stock options vest on 7/15/2023.

(6) Restricted stock vests on 3/14/2023.

(7) Restricted stock vests in equal amounts on 3/12/2023 and 3/12/2024.

(8) Restricted stock vests in equal amounts on 3/11/2023, 3/11/2024, and 3/11/2025.

(9) Restricted stock vests in equal amounts on 3/10/2023, 3/10/2024, 3/10/2025, and 3/10/2026.

(10) Restricted stock vests on 7/15/2023.

(11) Restricted stock vests on 9/17/2023.

(12) Performance units granted under the 2021 long-term incentive plan are earned as of the last day of fiscal 2023, to the extent performance conditions are achieved. Because the awards earned are not currently determinable, in accordance with SEC rules, the number of units and the corresponding market value reflect a representative amount based on performance through 2022, including cash payments equal to projected dividend equivalent payments.

(13) Performance units granted under the 2022 long-term incentive plan are earned as of the last day of fiscal 2024, to the extent performance conditions are achieved. Because the awards earned are not currently determinable, in accordance with SEC rules, the number of units and the corresponding market value reflect a representative amount based on performance in 2022, including cash payments equal to projected dividend equivalent payments.

2022 Option Exercises and Stock Vested

The following table provides information regarding 2022 stock options exercised, restricted stock vested, and common shares issued pursuant to performance units earned under long-term incentive plans.

Name	Option Awards ⁽¹⁾		Stock Awards ⁽²⁾	
	Number of Shares Acquired on Exercise (#)	Value Realized on Exercise (\$)	Number of Shares Acquired on Vesting (#)	Value Realized on Vesting (\$)
W. Rodney McMullen	194,880	8,661,442	376,876	19,160,902
Gary Millerchip	—	—	87,809	4,438,529
Stuart W. Aitken	101,747	2,768,087	90,240	4,566,794
Yael Cosset	73,566	2,079,679	90,012	4,550,119
Timothy A. Massa	16,000	627,275	65,961	3,342,585

(1) Stock options have a ten-year life and expire if not exercised within that ten-year period. The value realized on exercise is the difference between the exercise price of the option and the closing price of Kroger's common shares on the exercise date.

(2) The Stock Awards columns include vested restricted stock and earned performance units, as follows:

Name	Vested Restricted Stock		Earned Performance Units	
	Number of Shares	Value Realized	Number of Shares	Value Realized
W. Rodney McMullen	207,856	\$11,174,707	169,020	\$7,986,195
Gary Millerchip	44,346	\$2,384,902	43,463	\$2,053,627
Stuart W. Aitken	46,777	\$2,513,167	43,463	\$2,053,627
Yael Cosset	46,549	\$2,496,492	43,463	\$2,053,627
Timothy A. Massa	33,766	\$1,821,371	32,195	\$1,521,214

Restricted stock. The table includes the number of shares acquired upon vesting of restricted stock and the value realized on the vesting of restricted stock, based on the closing price of Kroger common shares on the vesting date.

Performance Units. Participants in the 2020-2022 Long-Term Incentive Plan were awarded performance units that were earned based on performance criteria established by the Compensation Committee as described in “2020-2022 Long-Term Incentive Plan—Results and Payout” in the CD&A. Actual payouts were based on the level of performance achieved and were paid in common shares. The number of common shares issued, and the value realized based on the closing price of Kroger common shares of \$47.25 on March 9, 2023, the date of deemed delivery of the shares, are reflected in the table above.

2022 Pension Benefits

The following table provides information regarding pension benefits for the NEOs as of the last day of fiscal 2022. Only Mr. McMullen participates in a pension plan.

Name	Plan Name	Number of Years Credited Service (#) ⁽¹⁾	Present Value of Accumulated Benefit (\$) ⁽²⁾	Payments during Last fiscal year (\$)
W. Rodney McMullen	Pension Plan	34	1,610,951	—
	Excess Plan	34	18,009,437	—
Gary Millerchip	Pension Plan	—	—	—
	Excess Plan	—	—	—
Stuart W. Aitken	Pension Plan	—	—	—
	Excess Plan	—	—	—
Yael Cosset	Pension Plan	—	—	—
	Excess Plan	—	—	—
Timothy A. Massa	Pension Plan	—	—	—
	Excess Plan	—	—	—

(1) In 2018, the Company froze the service periods used to calculate pension benefits and thus, Mr. McMullen’s number of years of credited service is less than his actual 44 years of service.

(2) The discount rate used to determine the present values was 4.89% for The Kroger Consolidated Retirement Benefit Plan Spin Off (the “Pension Plan”) and 4.92% for The Kroger Co. Consolidated Retirement Excess Benefit Plan (the “Excess Plan”), which are the same rates used at the measurement date for financial reporting purposes. Additional assumptions used in calculating the present values are set forth in Note 14 to the consolidated financial statements in Kroger’s 10-K for fiscal year 2022.

Pension Plan and Excess Plan

In 2022, Mr. McMullen was a participant in the Pension Plan, which is a qualified defined benefit pension plan. Mr. McMullen also participates in the Excess Plan, which is a nonqualified deferred compensation plan as defined in Section 409A of the Code. The purpose of the Excess Plan is to make up the shortfall in retirement benefits caused by the limitations on benefits to highly compensated individuals under the qualified defined benefit pension plans in accordance with the Code.

Although participants generally receive credited service beginning at age 21, certain participants in the Pension Plan and the Excess Plan who commenced employment prior to 1986, including Mr. McMullen, began to accrue credited service after attaining age 25 and one year of service. The Pension Plan and the Excess Plan generally determine accrued benefits using a cash balance formula but retain benefit formulas applicable under prior plans for certain “grandfathered participants” who were employed by Kroger on December 31, 2000. Mr. McMullen is eligible for these grandfathered benefits.

Grandfathered Participants

Benefits for grandfathered participants are determined using formulas applicable under prior plans, including the Kroger formula covering service to The Kroger Co. As a “grandfathered participant,” Mr. McMullen will receive benefits under the Pension Plan and the Excess Plan, determined as follows:

- 1½% times years of credited service multiplied by the average of the highest five years of total earnings (base salary and annual cash incentive) during the last ten calendar years of employment, reduced by 1¼% times years of credited service multiplied by the primary social security benefit;
- normal retirement age is 65; and
- unreduced benefits are payable beginning at age 62.

In 2018, we announced changes to these company-sponsored pension plans. The Company froze the compensation and service periods used to calculate pension benefits for active associates who participate in the affected pension plans, including the NEO participants, as of December 31, 2019. Beginning January 1, 2020, the affected active associates no longer accrue additional benefits for future service and eligible compensation received under these plans.

2022 Nonqualified Deferred Compensation

The following table provides information on nonqualified deferred compensation for the NEOs for 2022. Only Mr. McMullen participates in a nonqualified deferred compensation plan.

Name	Executive Contributions in Last FY	Aggregate Earnings in Last FY ⁽¹⁾	Aggregate Balance at Last FYE ⁽²⁾
W. Rodney McMullen	—	\$895,310	\$14,106,653
Gary Millerchip	—	—	—
Stuart W. Aitken	—	—	—
Yael Cosset	—	—	—
Timothy A. Massa	—	—	—

- (1) These amounts include the aggregate earnings on all accounts for each NEO, including any above-market or preferential earnings. The following amounts earned in 2022 are deemed to be preferential earnings and are included in the “Change in Pension Value and Nonqualified Deferred Compensation Earnings” column of the Summary Compensation Table for 2022: Mr. McMullen, \$175,750.
- (2) The following amounts in the Aggregate Balance column were reported in the Summary Compensation Tables covering fiscal years 2006 – 2021: Mr. McMullen, \$4,012,771.

Executive Deferred Compensation Plan

Mr. McMullen participates in the Deferred Compensation Plan, which is a nonqualified deferred compensation plan. Participants may elect to defer up to 100% of the amount of their salary that exceeds the sum of the FICA wage base and pre-tax insurance and other Code Section 125 plan deductions, as well as up to 100% of their annual and long-term cash incentive compensation. Kroger does not match any deferral or provide other contributions. Deferral account amounts are credited with interest at the rate representing Kroger’s cost of ten-year debt as determined by Kroger’s CFO and approved by the Compensation Committee prior to the beginning of each deferral year. The interest rate established for deferral amounts for each deferral year will be applied to those deferral

amounts for all subsequent years until the deferred compensation is paid out. Participants can elect to receive lump sum distributions or quarterly installments for periods up to ten years. Participants also can elect between lump sum distributions and quarterly installments to be received by designated beneficiaries if the participant dies before distribution of deferred compensation is completed.

Participants may not withdraw amounts from their accounts until they leave Kroger, except that Kroger has discretion to approve an early distribution to a participant upon the occurrence of an unforeseen emergency. Participants who are “specified associates” under Section 409A of the Code, which includes the NEOs, may not receive a post-termination distribution for at least six months following separation. If the associate dies prior to or during the distribution period, the remainder of the account will be distributed to his or her designated beneficiary in lump sum or quarterly installments, according to the participant’s prior election.

Potential Payments upon Termination or Change in Control

Kroger does not have employment agreements that provide for payments to the NEOs in connection with a termination of employment or a change in control of Kroger. However, KEPP and award agreements for stock options, restricted stock and performance units provide for certain payments and benefits to participants, including the NEOs, in the event of a termination of employment or a change in control of Kroger, as defined in the applicable plan or agreement. Our pension plans and nonqualified deferred compensation plan also provide for certain payments and benefits to participants in the event of a termination of employment, as described above in the 2022 Pension Benefits section and the 2022 Nonqualified Deferred Compensation section, respectively.

The Kroger Co. Employee Protection Plan

KEPP applies to all management associates who are classified as exempt under the federal Fair Labor Standards Act and to certain administrative or technical support personnel who are not covered by a collective bargaining agreement, with at least one year of service, including the NEOs. KEPP provides severance benefits when a participant’s employment is terminated actually or constructively within two years following a change in control of Kroger, as defined in KEPP. The actual amount of the severance benefit is dependent on pay level and years of service. Exempt associates, including the NEOs, are eligible for the following benefits:

- a lump sum severance payment equal to up to 24 months of the participant’s annual base salary and target annual incentive potential;
- a lump sum payment equal to the participant’s accrued and unpaid vacation, including banked vacation;
- continued medical and dental benefits for up to 24 months and continued group term life insurance coverage for up to six months; and
- up to \$10,000 as reimbursement for eligible outplacement expenses.

In the event that any payments or benefits received or to be received by an eligible associate in connection with a change in control or termination of employment (whether pursuant to KEPP or any other plan, arrangement or agreement with Kroger or any person whose actions result in a change in control) would constitute parachute payments within the meaning of Section 280G of the Code and would be subject to the excise tax under Section 4999 of the Code, then such payments and benefits will either be (i) paid in full or (ii) reduced to the minimum extent necessary to ensure that no portion of such payments or benefits will be subject to the excise tax, whichever results in the eligible associate receiving the greatest aggregate amount on an after-tax basis.

Long-Term Incentive Awards

The following table describes the treatment of long-term incentive awards following a termination of employment or change in control of Kroger, as defined in the applicable agreement. In each case, the continued vesting, exercisability or eligibility for the incentive awards will end if the participant provides services to a competitor of Kroger.

Triggering Event	Stock Options	Restricted Stock	Performance Units
Involuntary Termination	Forfeit all unvested options. Previously vested options remain exercisable for the shorter of one year after termination or the remainder of the original 10-year term	Forfeit all unvested shares	Forfeit all rights to units for which the three-year performance period has not ended
Voluntary Termination/Retirement • Prior to minimum age and five years of service ⁽¹⁾	Forfeit all unvested options. Previously vested options remain exercisable for the shorter of one year after termination or the remainder of the original 10-year term	Forfeit all unvested shares	Forfeit all rights to units for which the three-year performance period has not ended
Voluntary Termination/Retirement • After minimum age and five years of service ⁽¹⁾	Unvested options held greater than one year continue vesting on the original schedule. All options are exercisable for remainder of the original 10-year term	Unvested shares held greater than one year continue vesting on the original schedule	Pro rata portion ⁽²⁾ of units earned based on performance results over the full three-year period
Death	Unvested options are immediately vested. All options are exercisable for the remainder of the original 10-year term	Unvested shares immediately vest	Pro rata portion ⁽²⁾ of units earned based on performance results through the end of the fiscal year in which death occurs. Award will be paid following the end of such fiscal year
Disability	Unvested options are immediately vested. All options are exercisable for remainder of the original 10-year term	Unvested shares immediately vest	Pro rata portion ⁽²⁾ of units earned based on performance results over the full three-year period
Change in Control⁽³⁾ • For awards prior to 2019	Unvested options are immediately vested and exercisable	Unvested shares immediately vest	50% of the units granted at the beginning of the performance period earned immediately
Change in Control⁽³⁾ • For awards in March 2019 and thereafter	Unvested options only vest and become exercisable upon an actual or constructive termination of employment within two years following a change in control	Unvested shares only vest upon an actual or constructive termination of employment within two years following a change in control	50% of the units granted at the beginning of the performance period earned upon an actual or constructive termination of employment within two years following a change in control

(1) The minimum age requirement is age 62 for stock options and restricted stock and age 55 for performance units.

(2) The prorated amount is equal to the number of weeks of active employment during the performance period divided by the total number of weeks in the performance period.

(3) These benefits are payable upon an actual or constructive termination of employment within two years after a change in control, as defined in the applicable agreements.

Quantification of Payments upon Termination or Change in Control

The following table provides information regarding certain potential payments that would have been made to the NEOs if the triggering event occurred on the last day of the fiscal year, January 28, 2023, given compensation, age and service levels as of that date and, where applicable, based on the closing market price per Kroger common share on the last trading day of the fiscal year (\$45.05 on January 27, 2023). Amounts actually received upon the occurrence of a triggering event will vary based on factors such as the timing during the year of such event, the market price of Kroger common shares, and the officer's age, length of service and compensation level.

Name	Involuntary Termination	Voluntary Termination/ Retirement	Death	Disability	Change in Control without Termination	Change in Control with Termination
W. Rodney McMullen						
Accrued and Banked Vacation	\$638,750	\$638,750	\$638,750	\$638,750	\$638,750	\$638,750
Severance	—	—	—	—	—	\$8,400,000
Continued Health and Welfare Benefits ⁽¹⁾	—	—	—	—	—	\$49,101
Stock Options ⁽²⁾	\$0	\$0	\$6,367,962	\$6,367,962	\$0	\$6,367,962
Restricted Stock ⁽³⁾	\$0	\$0	\$9,783,644	\$9,783,644	\$0	\$9,783,644
Performance Units ⁽⁴⁾	\$0	\$5,058,176	\$5,058,176	\$5,058,176	\$0	\$5,814,401
Executive Group Life Insurance	—	—	\$2,000,000	—	—	—
Gary Millerchip						
Accrued and Banked Vacation	\$0	\$0	\$0	\$0	\$0	\$0
Severance	—	—	—	—	—	\$3,210,432
Continued Health and Welfare Benefits ⁽¹⁾	—	—	—	—	—	\$57,269
Stock Options ⁽²⁾	\$0	\$0	\$1,933,978	\$1,933,978	\$0	\$1,933,978
Restricted Stock ⁽³⁾	\$0	\$0	\$3,070,563	\$3,070,563	\$0	\$3,070,563
Performance Units ⁽⁴⁾	\$0	\$0	\$1,621,380	\$1,621,380	\$0	\$1,867,976
Executive Group Life Insurance	—	—	\$1,237,500	—	—	—
Stuart W. Aitken						
Accrued and Banked Vacation	\$0	\$0	\$0	\$0	\$0	\$0
Severance	—	—	—	—	—	\$3,550,008
Continued Health and Welfare Benefits ⁽¹⁾	—	—	—	—	—	\$59,895
Stock Options ⁽²⁾	\$0	\$0	\$1,724,608	\$1,724,608	\$0	\$1,724,608
Restricted Stock ⁽³⁾	\$0	\$0	\$3,101,963	\$3,101,963	\$0	\$3,101,963
Performance Units ⁽⁴⁾	\$0	\$0	\$1,621,380	\$1,621,380	\$0	\$1,867,976
Executive Group Life Insurance	—	—	\$1,387,500	—	—	—
Yael Cosset						
Accrued and Banked Vacation	\$0	\$0	\$0	\$0	\$0	\$0
Severance	—	—	—	—	—	\$3,350,016
Continued Health and Welfare Benefits ⁽¹⁾	—	—	—	—	—	\$44,303
Stock Options ⁽²⁾	\$0	\$0	\$1,640,444	\$1,640,444	\$0	\$1,640,444
Restricted Stock ⁽³⁾	\$0	\$0	\$3,033,712	\$3,033,712	\$0	\$3,033,712
Performance Units ⁽⁴⁾	\$0	\$0	\$1,621,380	\$1,621,380	\$0	\$1,867,976
Executive Group Life Insurance	—	—	\$1,237,500	—	—	—
Timothy A. Massa						
Accrued and Banked Vacation	\$0	\$0	\$0	\$0	\$0	\$0
Severance	—	—	—	—	—	\$3,250,008
Continued Health and Welfare Benefits ⁽¹⁾	—	—	—	—	—	\$48,839
Stock Options ⁽²⁾	\$0	\$0	\$1,147,641	\$1,147,641	\$0	\$1,147,641
Restricted Stock ⁽³⁾	\$0	\$0	\$1,899,083	\$1,899,083	\$0	\$1,899,083
Performance Units ⁽⁴⁾	\$0	\$1,037,944	\$1,037,944	\$1,037,944	\$0	\$1,202,339
Executive Group Life Insurance	—	—	\$1,275,000	—	—	—

(1) Represents the aggregate present value of continued participation in the Company's medical, dental and executive term life insurance plans, based on the premiums payable by the Company during the eligible period. The eligible period for continued medical and dental benefits is based on the level and length of service, which is 24 months for all NEOs. The eligible period for continued executive term life insurance coverage is six months for the NEOs. The amounts reported may ultimately be lower if the NEO is no longer eligible to receive benefits, which could occur upon obtaining other employment and becoming eligible for substantially equivalent benefits through the new employer.

- (2) Amounts reported in the “Death,” “Disability,” and “Change in Control” columns represent the intrinsic value of the accelerated vesting of unvested stock options, calculated as the difference between the exercise price of the stock option and the closing price per Kroger common share on January 27, 2023. A value of \$0 is attributed to stock options with an exercise price greater than the market price on the last day of the fiscal year. In accordance with SEC rules, no amount is reported in the “Voluntary Termination/Retirement” column because vesting is not accelerated, but the options may continue to vest on the original schedule if the conditions described above are met.
- (3) Amounts reported in the “Death,” “Disability,” and “Change in Control” columns represent the aggregate value of the accelerated vesting of unvested restricted stock. In accordance with SEC rules, no amount is reported in the “Voluntary Termination/Retirement” column because vesting is not accelerated, but the restricted stock may continue to vest on the original schedule if the conditions described above are met.
- (4) Amounts reported in the “Voluntary Termination/Retirement,” “Death” and “Disability” columns represent the aggregate value of the performance units granted in 2021 and 2022, based on performance through the last day of fiscal 2022 and prorated for the portion of the performance period completed. Amounts reported in the change in control column represent the aggregate value of 50% of the maximum number of performance units granted in 2021 and 2022. Awards under the 2020 Long-Term Incentive Plan were earned as of the last day of 2022 so each NEO age 55 or over was entitled to receive (regardless of the triggering event) the amount actually earned, which is reported in the Stock Awards column of the 2022 Option Exercises and Stock Vested Table.

Pay Versus Performance

As required by Section 953(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, and Item 402(v) of Regulation S-K, we are providing the following information about the relationship between executive “compensation actually paid,” or “CAP,” and certain financial performance of the Company. For further information concerning the Company’s pay-for-performance philosophy and how the Company aligns executive compensation with the Company’s performance, refer to the CD&A beginning on page 46.

PAY VERSUS PERFORMANCE TABLE*

(a) Year	(b) Summary Compensation Table Total for PEO (\$) ¹	(c) Compensation Actually Paid to PEO (\$) ²	(d) Average Summary Compensation Table Total for Non-PEO NEOs (\$) ³	(e) Average Compensation Actually Paid to Non-PEO NEOs (\$) ⁴	(f) Value of Initial Fixed \$100 Investment Based on ⁵		(g) Net Income (\$) ⁶ (in millions)	(h) Adjusted FIFO Operating Profit (\$) ⁷ (in millions)
					Total Share- holder Return (\$)	Peer Group Total Share- holder Return (\$)		
2022	19,209,843	23,325,794	6,117,423	6,281,085	178.23	140.77	2,244	5,079
2021	18,168,730	36,111,316	5,644,957	9,323,327	168.66	145.25	1,655	4,310
2020	22,373,574	29,840,084	6,932,437	9,191,933	131.19	123.01	2,585	4,056

*Totals in the above table might not equal the summation of the columns due to rounding amounts to the nearest dollar.

1. During fiscal 2020, 2021, and 2022, Mr. McMullen served as our Principal Executive Officer (“PEO”). The dollar amounts reported in column (b) are the amounts of total compensation reported for each corresponding year in the Total column of the Summary Compensation Table (“SCT”).
2. The dollar amounts reported in column (c) represent the amount of “compensation actually paid” to Mr. McMullen as computed in accordance with Item 402(v) of Regulation S-K. The amounts do not reflect the actual amount of compensation earned by or paid to Mr. McMullen during the applicable year. In accordance with the requirements of Item 402(v) of Regulation S-K, the following adjustments were made to Mr. McMullen’s total compensation for each year to determine the CAP:

PEO SCT Total to CAP Reconciliation

Year	Reported Summary Compensation Table for PEO (\$)	Reported Summary Compensation Table Value of Equity Awards ^(a) (\$)	Equity Award Adjustments ^(b) (\$)	Reported Change in the APV of Pension Benefits in Summary Compensation Table ^(c) (\$)	Plus: Pension Benefit Adjustments ^{(b)(c)} (\$)	Compensation Actually Paid to PEO (\$)
2022	19,209,843	12,667,275	16,783,226	-	-	23,325,794
2021	18,168,730	10,999,185	28,941,771	-	-	36,111,316
2020	22,373,574	13,001,622	22,126,697	1,658,565	-	29,840,084

- a) The amounts included in this column are the amounts reported in “Stock Awards” and “Option Awards” column of the SCT for each applicable year and are subtracted from the Reported Summary Compensation Table for PEO.
- b) The equity award and pension benefit adjustments for each applicable year were calculated in accordance with the methodology required by Item 402(v) of Regulation S-K as follow: the equity award adjustments for each applicable year include the addition (or subtraction, as applicable) of the following: (i) the year-end fair value of any equity awards granted in the applicable year that are outstanding and unvested as of the end of the year; (ii) the amount equal to the change as of the end of the applicable year (from the end of the prior fiscal year) in the fair value of any awards granted in prior years that are outstanding and unvested as of the end of the applicable year; (iii) for awards that are granted and vest in the same applicable year, the fair value as of the vesting date; (iv) for awards granted in prior years that vest in the applicable year, the amount equal to the change as of the vesting date (from the end of the prior fiscal year) in fair value; (v) for awards granted in prior years that are determined to fail to meet the applicable vesting conditions during the applicable year, a deduction for the amount equal to the fair value at the end of the prior fiscal year; and (vi) the dollar value of any dividends or other earnings paid on stock or option awards in the applicable year prior to the vesting date that are not otherwise reflected in the fair value of such award or included in any other component of total compensation for the applicable year. The valuation assumptions used to calculate fair values did not materially differ from those disclosed at the time of grant. The amounts deducted or added in calculating the equity award adjustments for the PEO are provided in the table below:

PEO Equity Award Adjustments

Year	Year End Fair Value of Awards Granted in the Year (\$)	YoY Change in Fair Value of Outstanding & Unvested Awards (\$)	Fair Value as of Vesting Date of Awards Granted and Vested in the Year (\$)	Year over Year Change in Fair Value of Awards Granted in Prior Years that Vested in the Year (\$)	Total Equity Award Adjustments (\$)
2022	9,214,146	(855,562)	-	8,424,642	16,783,226
2021	17,014,361	2,769,331	-	9,158,079	28,941,771
2020	12,561,917	6,145,551	-	3,419,229	22,126,697

- c) The amounts included in this column are the amounts reported in “Change in Pension and Nonqualified Deferred Compensation” of the SCT for each applicable year. Total Pension Benefit Adjustments are equal to the Pension Service Costs incurred during the relevant period. No Prior Service Costs were incurred as no modifications were made to the pension plan during the relevant period.
- 3. The dollar amounts reported in column (d) represent the average of the amounts reported for our non-PEO NEOs as a group in the Total column of the SCT in each applicable year. The names of each of these NEOs included for purposes of calculating the average amounts in each applicable year are as follows: (i)

for Fiscal 2022 and 2021, Mr. Millerchip, Mr. Aitken, Mr. Cosset, and Mr. Massa; and (ii) for Fiscal 2020, Mr. Millerchip, Mr. Aitken, Mr. Cosset, and Mr. Donnelly.

- The dollar amounts reported in column (e) represent the average amount of “compensation actually paid” to the Non-PEO NEOs as a group as identified in footnote 3 above, as computed in accordance with Item 402(v) of Regulation S-K. The dollar amounts do not reflect the actual average amount of compensation earned by or paid to these NEOs as a group during the applicable year. In accordance with the requirements of Item 402(v) of Regulation S-K, the following adjustments were made to the average total compensation for these NEOs as a group for each year to determine the CAP using the same methodology as described in footnote 2:

Average Non-PEO NEOs Summary Compensation Table Total to CAP Reconciliation						
Year	Average Reported Summary Compensation Table for Non-PEO NEOs (\$)	Average Reported Summary Compensation Table Value of Equity Awards for non-PEO NEOs (\$)	Average Equity Award Adjustments ^(a) (\$)	Average Change in the APV of Pension Benefits in SCT ^(b) (\$)	Plus: Average Pension Benefit Adjustments (\$)	Average Compensation Actually Paid to non-PEO NEOs (\$)
2022	6,117,423	3,783,616	3,947,278	-	-	6,281,085
2021	5,644,957	3,174,785	6,853,155	-	-	9,323,327
2020	6,932,437	3,807,225	6,291,210	224,490	-	9,191,933

- The amounts deducted or added in calculating the total average equity award adjustments are provided in the table below:

Equity Award Adjustments for Non-PEO NEOs					
Year	Average Year End Fair Value of Awards Granted in the Year (\$)	Year over Year Average Change in Fair Value of Outstanding & Unvested Awards (\$)	Average Fair Value as of Vesting Date of Awards Granted and Vested in the Year (\$)	Year over Year Average Change in Fair Value of Awards Granted in Prior Years that Vested in the Year (\$)	Total Average Equity Award Adjustment (\$)
2022	2,606,281	(259,317)	-	1,600,314	3,947,278
2021	4,424,764	667,315	-	1,761,076	6,853,155
2020	4,033,879	1,507,771	-	749,561	6,291,210

- Total Pension Benefit Adjustments are equal to the Pension Service Costs incurred during the relevant period. No Prior Service Costs were incurred as no modifications were made to the pension plan during the relevant period. Only Mr. Donnelly participated in the pension plan.

- Cumulative TSR is calculated by dividing (a) the sum of the cumulative amount of dividends for the measurement period, assuming dividend reinvestment, and the difference between the Company’s share price at the end and the beginning of the measurement period by (b) the Company’s share price at the beginning of the measurement period. The peer group selected by the Company for purposes of the TSR benchmarking for the pay versus performance disclosures is the same peer group the Company uses for its performance graph in the Annual Report on Form 10-K pursuant to Item 201(e) of Regulation S-K. The Peer Group consists of Albertsons Companies, Inc. (included from June 26, 2020 when it began trading), Costco Wholesale Corporation, CVS Health Corporation, Koninklijke Ahold Delhaize N.V., Target Corp., Walgreens Boots Alliance Inc. and Walmart Inc. The cumulative TSR depicts a hypothetical \$100 investment in Kroger common shares on February 1, 2020, and shows the value of that investment over time (assuming the reinvestment of dividends) for each calendar year. A hypothetical \$100 investment in the Peer Group using the same methodology is shown for comparison.
- Net income is as reported in the Company’s audited financial statements for the applicable year in accordance with U.S. GAAP.

7. Adjusted FIFO Operating Profit equals gross profit, excluding the LIFO charge, minus OG&A, minus rent, and minus depreciation and amortization. For a reconciliation of non-GAAP information, see pages 27 – 33 of our Annual Report on Form 10-K for the fiscal year ended January 28, 2023, filed with the SEC on March 28, 2023.

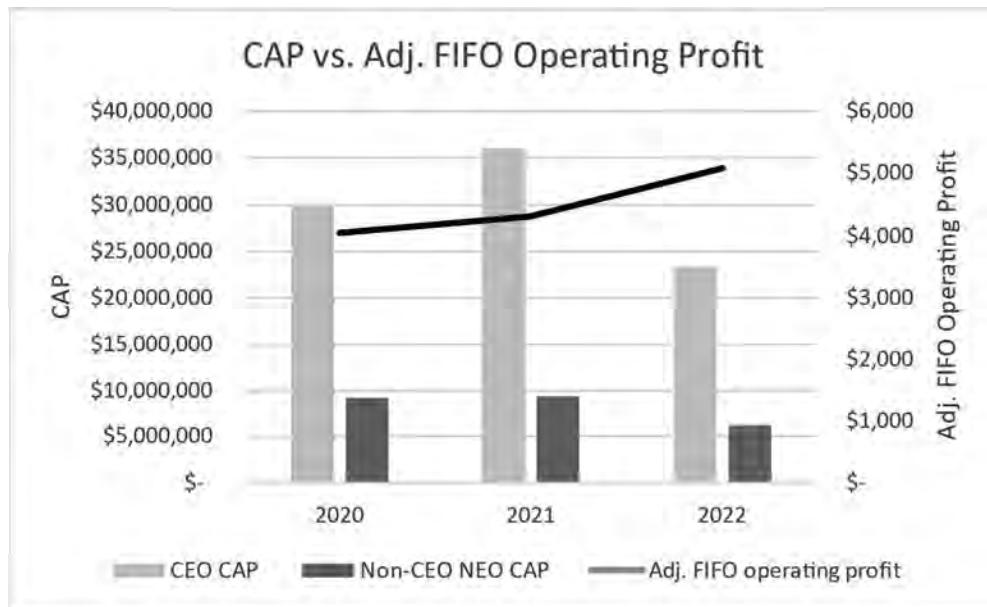
Most Important Performance Measures

The three measures listed below represent the most important financial performance measures used by the Company to link CAP to Company performance for the 2022 fiscal year,

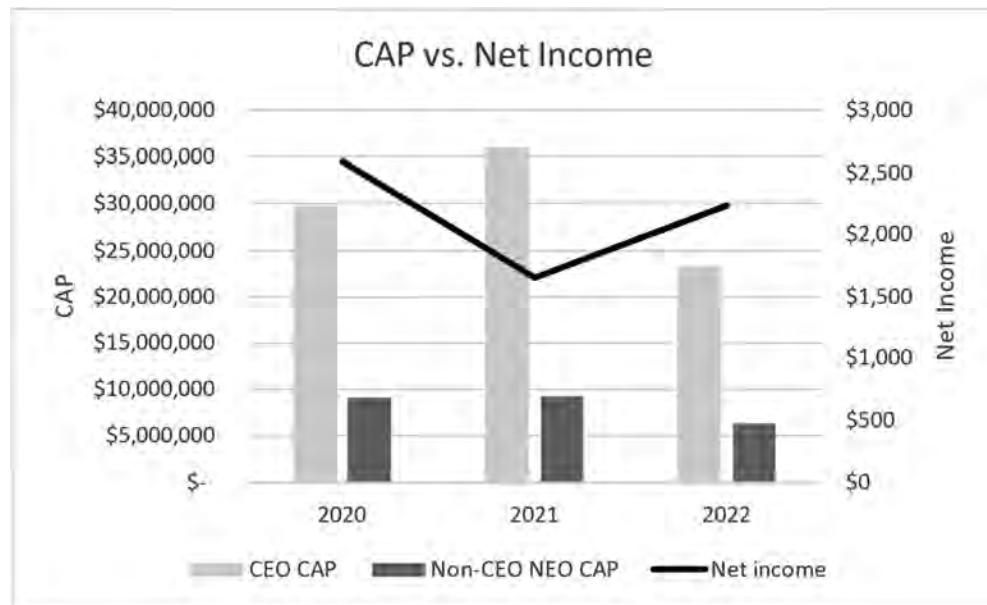
- Adjusted FIFO Operating Profit
- ID sales, without fuel
- Adjusted net earnings per diluted share attributable to The Kroger Co.

For a reconciliation of non-GAAP information, see pages 27 – 33 of our Annual Report on Form 10-K for the fiscal year ended January 28, 2023, filed with the SEC on March 28, 2023.

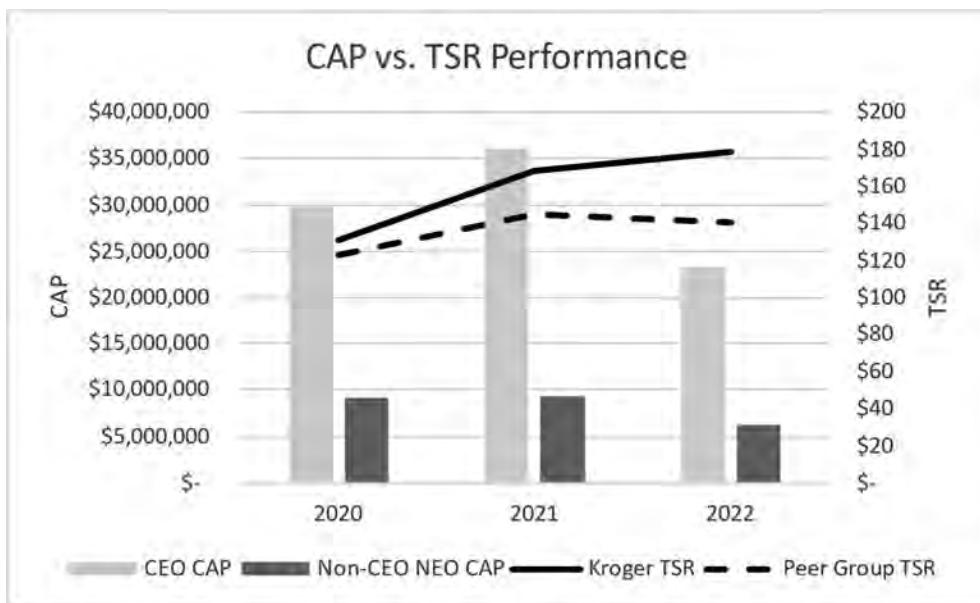
COMPANY SELECTED METRIC – Adjusted FIFO Operating Profit



NET INCOME GRAPHICAL REPRESENTATION



KROGER TSR GRAPHICAL REPRESENTATION



CEO Pay Ratio

As required by Section 953(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, and Item 402(u) of Regulation S-K, we are providing the following information regarding the ratio of the annual total compensation of our Chairman and CEO, Mr. McMullen, to the annual total compensation of our median associate.

As reported in the Summary Compensation Table, our CEO had annual total compensation for 2022 of \$19,209,843. Using this Summary Compensation Table methodology, the annual total compensation of our median associate for 2022 was \$28,644. As a result, we estimate that the ratio of our CEO's annual total compensation to that of our median associate for fiscal 2022 was 671 to 1. Our median employee is a full-time associate in the Southeast region. Over half of Kroger's associates are part-time workers.

This pay ratio is a reasonable estimate calculated in a manner consistent with SEC rules based on our payroll records and the methodology described below. The SEC rules for identifying the median compensated associate and calculating the pay ratio based on that associate's annual total compensation allow companies to adopt a variety of methodologies, to apply certain exclusions, and to make reasonable estimates and assumptions that reflect their compensation practices. As such, other companies may have different employment and compensation practices and may utilize different methodologies, exclusions, estimates and assumptions in calculating their own pay ratios. Therefore, the estimated pay ratio reported above may not be comparable to the pay ratios reported by other companies and should not be used as a basis for comparison between companies.

We then determined the median associate's annual total compensation using the Summary Compensation Table methodology as detailed in Item 402(c)(2)(x) of Regulation S-K and compared it to the annual total compensation of Mr. McMullen as detailed in the "Total" column of the Summary Compensation Table for 2022, to arrive at the pay ratio disclosed above. Due to a material increase in salary of our median associate in fiscal 2022, we identified a substitute median associate as permitted under SEC rules on April 3, 2023 because we reasonably believed that continuing to use the prior median associate would have significantly affected our CEO pay ratio disclosure and the CEO pay ratio would not reflect the actual ratio that was used to calculate the pay ratio.

Compensation Policies as They Relate to Risk Management

As part of the Compensation Committee's review of our compensation practices, the Compensation Committee considers and analyzes the extent to which risks arise from such practices and their impact on Kroger's business. As discussed in this Compensation Discussion and Analysis, our policies and practices for compensating associates are designed to, among other things, attract and retain high quality and engaged associates. In this process, the Compensation Committee also focuses on minimizing risk through the implementation of certain practices and policies, such as the executive compensation recoupment policy, which is described above. Accordingly, we do not believe that our compensation practices and policies create risks that are reasonably likely to have a material adverse effect on Kroger.

Item No. 2 Advisory Vote to Approve Executive Compensation

You are being asked to vote, on an advisory basis, to approve the compensation of our NEOs.

FOR	The Board recommends a vote FOR the approval of compensation of our NEOs.
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The Dodd-Frank Wall Street Reform and Consumer Protection Act, enacted in July 2010, requires that we give our shareholders the right to approve, on a nonbinding, advisory basis, the compensation of our NEOs as disclosed earlier in this proxy statement in accordance with the SEC's rules.

As discussed earlier in the CD&A, our compensation philosophy is to attract and retain the best management talent and to motivate these associates to achieve our business and financial goals. Our incentive plans are designed to reward the actions that lead to long-term value creation. To achieve our objectives, we seek to ensure that compensation is competitive and that there is a direct link between pay and performance. To do so, we are guided by the following principles:

- Compensation must be designed to attract and retain the individuals to be an executive at Kroger;
- A significant portion of pay should be performance-based, with the percentage of total pay tied to performance increasing proportionally with an executive's level of responsibility;
- Compensation should include incentive-based pay to drive performance, providing superior pay for superior performance, including both a short- and long-term focus;
- Compensation policies should include an opportunity for, and a requirement of, significant equity ownership to align the interests of executives and shareholders;
- Components of compensation should be tied to an evaluation of business and individual performance measured against metrics that directly drive our business strategy;
- Compensation plans should provide a direct line of sight to company performance;
- Compensation programs should be aligned with market practices; and
- Compensation programs should serve to both motivate and retain talent.

The vote on this resolution is not intended to address any specific element of compensation. Rather, the vote relates to the compensation of our NEOs as described in this proxy statement. The vote is advisory. This means that the vote is not binding on Kroger. The Compensation Committee of the Board is responsible for establishing executive compensation. In so doing, the Compensation Committee will consider, along with all other relevant factors, the results of this vote.

We ask our shareholders to vote on the following resolution:

“RESOLVED, that the compensation paid to the Company’s NEOs, as disclosed pursuant to Item 402 of Regulation S-K, including the Compensation Discussion and Analysis, compensation tables, and the related narrative discussion, is hereby APPROVED.”

The next advisory vote will occur at our 2024 Annual Meeting subject to shareholders approving one year as the frequency of the advisory vote in Item No. 3 below.

Item No. 3 Advisory Vote on the Frequency of Future Advisory Votes on Executive Compensation

You are being asked to vote, on an advisory basis, on the frequency of future advisory votes on executive compensation. The Board of Directors recommends a vote of ONE YEAR for the frequency of future advisory votes on executive compensation.

The Dodd-Frank Wall Street Reform and Consumer Protection Act and Section 14A of the Securities Exchange Act also require that shareholders be given the right to vote, again on a nonbinding, advisory basis, for their preference as to how frequently we should seek future advisory votes on the compensation of our named executive officers.

When the advisory vote was last held in 2017, shareholders indicated a preference to hold the advisory vote on executive compensation each year and the Board implemented this standard. The Board of Directors believes that an advisory vote on executive compensation that occurs every year is the most appropriate alternative for Kroger and it therefore recommends that you vote for the one year alternative.

The vote is advisory. This means that the vote is not binding on Kroger. Our Board of Directors will determine the actual voting frequency for approval of executive compensation. In so doing the Board will consider, along with all other relevant factors, the results of this vote. The Board may decide to hold an advisory vote on executive compensation more or less frequently than the frequency receiving the most votes cast by shareholders.

The proxy card provides shareholders the opportunity to choose among four options for the frequency of the advisory vote: every one, two, or three years, or abstain from casting a vote. Shareholders will not be voting to approve or to disapprove the recommendation of the Board of Directors. The option receiving the most affirmative votes will be the outcome of the advisory vote. Broker non-votes and abstentions will have no effect on the outcome of this vote.

The Board of Directors Recommends a Vote of One Year for this Proposal.

Item No. 4 Ratification of the Appointment of Kroger's Independent Auditor

You are being asked to ratify the appointment of Kroger's independent auditor, PricewaterhouseCoopers LLC.

FOR The Board recommends a vote FOR the ratification of PricewaterhouseCoopers LLP as our independent registered public accounting firm.

The primary function of the Audit Committee is to assist the Board of Directors in fulfilling its oversight responsibilities regarding the Company's financial reporting and accounting practices including the integrity of the Company's financial statements; the Company's compliance with legal and regulatory requirements; the independent public accountants' qualifications and independence; the performance of the Company's internal audit function and independent public accountants; and the preparation of the Audit Committee Report. The Audit Committee performs this work pursuant to a written charter approved by the Board of Directors. The Audit Committee charter most recently was revised during fiscal 2012 and is available on the Company's website at ir.kroger.com under Investors — Governance — Committee Composition. The Audit Committee has implemented procedures to assist it during the course of each fiscal year in devoting the attention that is necessary and appropriate to each of the matters assigned to it under the Audit Committee's charter. The Audit Committee held 5 meetings during fiscal year 2022.

Selection of Independent Auditor

The Audit Committee of the Board of Directors is directly responsible for the appointment, compensation, retention, and oversight of Kroger's independent auditor, as required by law and by applicable NYSE rules. On March 8, 2023, the Audit Committee appointed PricewaterhouseCoopers LLP as Kroger's independent auditor for the fiscal year ending January 27, 2024. PricewaterhouseCoopers LLP or its predecessor firm has been the Company's independent auditor since 1929.

In determining whether to reappoint the independent auditor, our Audit Committee:

- Reviews PricewaterhouseCoopers LLP's independence and performance;
- Considers the tenure of the independent registered public accounting firm and safeguards around auditor independence;
- Reviews, in advance, all non-audit services provided by PricewaterhouseCoopers LLP, specifically with regard to the effect on the firm's independence;
- Conducts an annual assessment of PricewaterhouseCoopers LLP's performance, including an internal survey of their service quality by members of management and the Audit Committee;
- Conducts regular executive sessions with PricewaterhouseCoopers LLP;
- Conducts regular executive sessions with the Vice President of Internal Audit;
- Considers PricewaterhouseCoopers LLP's familiarity with our operations, businesses, accounting policies and practices and internal control over financial reporting;
- Reviews candidates for the lead engagement partner in conjunction with the mandated rotation of the public accountants' lead engagement partner;

- Reviews recent Public Company Accounting Oversight Board reports on PricewaterhouseCoopers LLP and its peer firms; and
- Obtains and reviews a report from PricewaterhouseCoopers LLP describing all relationships between the independent auditor and Kroger at least annually to assess the independence of the internal auditor.

As a result, the members of the Audit Committee believe that the continued retention of PricewaterhouseCoopers LLP to serve as our independent registered public accounting firm is in the best interests of our Company and its shareholders.

While shareholder ratification of the selection of PricewaterhouseCoopers LLP as our independent auditor is not required by Kroger's Regulations or otherwise, the Board of Directors is submitting the selection of PricewaterhouseCoopers LLP to shareholders for ratification, as it has in past years, as a good corporate governance practice. If the shareholders fail to ratify the selection, the Audit Committee may, but is not required to, reconsider whether to retain that firm. Even if the selection is ratified, the Audit Committee in its discretion may direct the appointment of a different auditor at any time during the year if it determines that such a change would be in the best interests of our Company and our shareholders.

A representative of PricewaterhouseCoopers LLP is expected to participate in the meeting to respond to appropriate questions and to make a statement if he or she desires to do so.

Audit and Non-Audit Fees

The following table presents the aggregate fees billed for professional services performed by PricewaterhouseCoopers LLP for the annual audit and quarterly reviews of our consolidated financial statements for fiscal 2022 and 2021, and for audit-related, tax and all other services performed in 2022 and 2021.

	Fiscal Year Ended	
	January 28, 2023	January 29, 2022
	(\$)	(\$)
Audit Fees⁽¹⁾	5,886,900	5,427,500
Audit-Related Fees	982,000	0
Tax Fees⁽²⁾	153,000	25,000
All Other Fees⁽³⁾	5,850	3,150
Total	7,027,750	5,455,650

- (1) Includes annual audit and quarterly reviews of Kroger's consolidated financial statements, the issuance of comfort letters to underwriters, consents, and assistance with review of documents filed with the SEC.
- (2) Includes pre-approved assistance with tax compliance and assistance in connection with tax audits.
- (3) Includes use of accounting research tool.

The Audit Committee requires that it approve in advance all audit and non-audit work performed by PricewaterhouseCoopers LLP. Pursuant to the Audit Committee audit and non-audit service pre-approval policy, the Committee will annually pre-approve certain defined services that are expected to be provided by the independent auditors. If it becomes appropriate during the year to engage the independent accountant for additional services, the Audit Committee must first approve the specific services before the independent accountant may perform the additional work.

PricewaterhouseCoopers LLP has advised the Audit Committee that neither the firm, nor any member of the firm, has any financial interest, direct or indirect, in any capacity in Kroger or its subsidiaries.

The Board of Directors Recommends a Vote For This Proposal.

Audit Committee Report

Management of the Company is responsible for the preparation and presentation of the Company's financial statements, the Company's accounting and financial reporting principles and internal controls, and procedures that are designed to provide reasonable assurance regarding compliance with accounting standards and applicable laws and regulations. The independent public accountants are responsible for auditing the Company's financial statements and expressing opinions as to the financial statements' conformity with generally accepted accounting principles and the effectiveness of the Company's internal control over financial reporting.

In performing its functions, the Audit Committee:

- Met separately with the Company's internal auditor and PricewaterhouseCoopers LLP with and without management present to discuss the results of the audits, their evaluation and management's assessment of the effectiveness of Kroger's internal controls over financial reporting and the overall quality of the Company's financial reporting;
- Met separately with the Company's Chief Financial Officer or the Company's General Counsel when needed;
- Met regularly in executive sessions;
- Reviewed and discussed with management the audited financial statements included in our Annual Report;
- Discussed with PricewaterhouseCoopers LLP the matters required to be discussed under the applicable requirements of the Public Company Accounting Oversight Board and the SEC; and
- Received the written disclosures and the letter from PricewaterhouseCoopers LLP required by the applicable requirements of the Public Accounting Oversight Board regarding the independent public accountant's communication with the Audit Committee concerning independence and discussed the matters related to their independence.

Based upon the review and discussions described in this report, the Audit Committee recommended to the Board of Directors that the audited consolidated financial statements be included in the Company's Annual Report on Form 10-K for the year ended January 28, 2022, as filed with the SEC.

This report is submitted by the Audit Committee.

Anne Gates, Chair

Kevin M. Brown

Karen M. Hoguet

Ronald L. Sargent

Ashok Vemuri

Items 5 – 9

SHAREHOLDER PROPOSALS

Included in this proxy statement are five separate shareholder proposals that have been submitted under SEC rules by shareholders who notified the company of their intention to present the proposals for voting at the 2023 Annual Shareholders' Meeting. Some shareholder proposals and supporting statements may contain assertions about Kroger that we believe are incorrect, and we have not tried to refute all such inaccuracies in the company's responses. All statements and citations contained in a shareholder proposal and its supporting statements are the sole responsibility of the proponent of that shareholder proposal. Our company will provide the names, addresses, and shareholdings (to our company's knowledge) of the proponents of any shareholder proposal upon oral or written request made to Corporate Secretary, The Kroger Co., 1014 Vine Street, Cincinnati, Ohio 45202-1100. The information on, or accessible through, Kroger's websites or report links included in this proxy statement, including the statements that follow, is not part of, or incorporated by reference into, this proxy statement.

AGAINST The Board recommends a vote AGAINST each of the following shareholder proposals, in each case if properly presented at the meeting, for the reasons stated in Kroger's statements in opposition following each shareholder proposal.

Item No. 5 Shareholder Proposal – Report on Public Health Costs from Sale of Tobacco Products

We have been advised that The Sisters of St. Francis of Philadelphia or an appointed representative, along with nine co-filers, will present the following proposal for consideration during the 2023 Annual Shareholders' Meeting.

"RESOLVED, shareholders ask that the board commission and disclose a report on the external public health costs created by the sale of tobacco products by our company (the "Company") and the manner in which such costs affect the vast majority of its shareholders who rely on overall market returns.

The negative health and productivity impacts from the consumption of tobacco products impose \$1.2 trillion in social damage; tobacco's unpriced social burden amounts to almost 3 percent of global GDP annually.¹

Yet, in spite of the Company dedicating an entire division, Kroger Health, to addressing its customers' healthcare needs², as well as the overwhelming evidence that tobacco – a known carcinogen that impairs respiratory function – significantly prejudices the health outcomes of smokers, and particularly smokers infected with COVID-19, the Company continues to sell tobacco products in its stores.

These public health costs, year after year, are devastating to economic growth and further compound the financial devastation wrought by the COVID-19 pandemic. Yet Kroger does not disclose any methodology to address the public health costs of its tobacco sales. Thus, shareholders have no guidance as to costs the Company is externalizing and consequent economic harm. This information is essential to shareholders, the majority of whom are beneficial owners with broadly diversified interests.

But Kroger undermines its commitments to promoting good health and ultimately the interests of its diversified shareholders by not disclosing the social and environmental costs and risks imposed on stakeholders, even when these costs and risks threaten society, the economy and the performance of other companies. All stakeholders are unalterably harmed when companies impose costs on the economy that lower GDP, which reduces equity value.³ While the Company may profit by ignoring costs it externalizes, diversified shareholders will ultimately pay these costs, and they have a right to ask what they are.

The Company's disclosures do not address the issue, because they do not address the public health costs that Kroger's tobacco sales impose on shareholders as diversified investors who must fund retirement, education, public goods and other critical social needs. This is a separate social issue of great importance. A report would help shareholders determine whether these externalized costs and the economic harm they may create ultimately serve their interests."

¹ https://www.cdc.gov/tobacco/data_statistics/fact_sheets/economics/econ_facts/index.htm

² [Kroger Health – Business & Community Health Solutions](#)

³ https://www.unepfi.org/fileadmin/documents/universal_ownership_full.pdf

The Board of Directors Recommends a Vote Against This Proposal for the Following Reasons:

Kroger takes the responsibility of selling tobacco products very seriously and has established policies and processes to limit the sale of these items only to customers who are legally permitted to purchase them. We offer customers a wide range of choices across all product categories to meet wide-ranging tastes and preferences, including food and discretionary items.

The Company has the management systems and governance to limit the sale of tobacco products and to support choices for better health.

The Kroger family of companies is committed to ethical and responsible behavior in all parts of our business. Our behavior is rooted in Our Purpose – to Feed the Human Spirit™ – and our promise to our customers. This includes upholding Our Values, which have been the foundation of Kroger’s culture for decades.

The Audit Committee and Public Responsibilities Committee of the board of directors oversee progress in regulatory compliance and pharmacy safety measures.

We recognize our responsibility as a business to support our communities and help families by making it easier for them to live healthier lives. We also believe in our customers’ freedom of choice, and adult customers can choose to purchase tobacco products understanding fully the potential health impacts. The Company continually reviews its product assortment, including tobacco and tobacco cessation products.

Notably, recent studies that show the percentage of U.S. adults who smoke cigarettes has reached a new low, driven by sharply lower smoking rates among young adults.¹ Sales for both tobacco products and tobacco cessation products at Kroger have similarly decreased in recent years.

How We Limit Tobacco Sales

Tobacco sales, like the sales of many products, are governed by regulations, which we strictly follow. The Company’s Tobacco Sales Policy is designed to comply with these regulations and affirm our commitment to the health and welfare of our nation’s youth by reducing adolescent access to tobacco. The Policy outlines internal business procedures and best practices to maintain compliance at retail stores.

How We Promote Health and Healthier Choices

We aim to serve and improve health for millions of people across the country through our business operations, Environmental, Social and Governance Strategy – *Thriving Together* – and Kroger Health’s strategy and services.

Kroger Health leads the company’s health and nutrition strategy, services and programs. It includes retail, mail order, central fill and specialty pharmacy operations; retail health clinics; nutrition and dietitian services; and health advocacy. A team of 22,000 healthcare practitioners, including pharmacists, nurse practitioners, dietitians and technicians, serves more than 14 million customers annually.

We aim to support our customers and communities with tools, resources and services that advance population health for all. We inform our Customers and Associates about the importance of healthy lifestyles, and we equip our pharmacy and health clinic teams to support people trying to quit tobacco. Specifically related to the use of tobacco products, we:

- Offer smoking cessation coaching programs that are available to all, including coaching through telehealth services;

¹ <https://news.gallup.com/poll/405884/cigarette-smoking-rates-down-sharply-among-young-adults.aspx#:~:text=U.S.%20Cigarette%20Smoking%20Rates%2C%20by%20Age%20Group&text=That%20dropped%20to%20an%20average,t hose%20ages%2065%20and%20older>

- Offer affordable prescription and over-the-counter smoking cessation products that are available to all; and
- Encourage Associates not to use tobacco through Company health plan incentives, coverage for smoking cessation products, and employee assistance programs for smoking cessation.

Kroger continues to make a wide range of health and wellness services more affordable and convenient for millions of customers and for local communities across the U.S. As a trusted local partner, we also provided essential support and services during the COVID-19 pandemic, rapidly scaling testing and vaccine distributions when needed most.

Assessing the external public health costs related to the Company's sale of a single category of products is not reasonable or practicable given the resources and expertise required to consider all externalities and related topics outside of our control. In light of the above, we do not believe an additional report would add meaningfully to the extensive body of research currently available on this subject and therefore do not believe such an additional report is necessary.

For the foregoing reasons, we urge you to vote AGAINST this proposal.

Item No. 6 – Listing of Charitable Contributions of \$10,000 or more

We have been advised that The Louis B & Diana R Eichold Trust or an appointed representative will present the following proposal for consideration during the 2023 Annual Shareholders' Meeting.

“Whereas the Company's charitable contributions, properly managed, are likely to enhance the reputation of the Company:

Whereas increased disclosure regarding appropriate charitable contributions can create goodwill for our Company .

Whereas making the benefits of our Company's philanthropic programs better known is likely to promote the Company's interests:

Whereas feedback from employees, shareholders, and customers could help guide the Company's future charitable giving process.

Resolved: The Proponent requests that the Board of Directors consider listing on the Company website any recipient of \$10,000 or more of direct contributions, excluding employee matching gifts.

Supporting Statement

Absent a system of accountability and transparency; some charitable contributions may be made unwisely, potentially harming the Company's reputation and shareholder value. Corporate philanthropic gifts should be given as much exposure as possible, lest their intended impact on goodwill is diminished. For example, if we gave to the American Cancer Society, thousands of our stakeholders might potentially approve of our interest in challenging this disease. Likewise, our support of Planned Parenthood could win the praise of millions of Americans who have had an abortion at one of their facilities. Educational organizations like the Southern Poverty Law Center have seen an increase in funding since they included several conservative Christian organizations on their list of hate groups. Our stakeholders and customers might be similarly enthused if we supported them. Be it the Girl Scouts, American Heart Association, Boys and Girls Club of America, Red Cross, or countless other possible recipients, our support should be publicly noted. Those who might disagree with our decisions can play a valuable role also.

Some charities may be controversial. Charitable contributions come from the fruit of our employee's labor and belong to our shareholders. Both groups represent a wide diversity of opinions. More importantly, we market ourselves to the general public and should avoid offending segments of this most critical group. It would be unfortunate if a charitable contribution resulted in lower employee morale and shareholder interest, much less a loss of potential revenue.

Fuller disclosure would provide enhanced feedback opportunities from which our Company could make more beneficial choices.”

The Board of Directors Recommends a Vote Against This Proposal for the Following Reasons:

Kroger has a long history of giving back meaningfully in the communities we serve. Charitable giving is central to Our Purpose – to Feed the Human Spirit – and strategically aligned to our mission – Kroger’s Zero Hunger | Zero Waste social and environmental impact plan. This plan empowers Kroger to pursue our goal to help create communities free of hunger and waste across the country. Additionally, we provide annual public disclosures related to charitable giving areas of focus and annual grant-making.

Every year, we direct charitable contributions at the national, regional and local levels to advance positive impacts for people and our planet. This giving includes funds, in-kind product donations, and retail store donations of surplus fresh food that our associates recover for local food bank partners through our leading Zero Hunger | Zero Waste Food Rescue program. For example, in 2022, 100% of our retail stores participated in the Food Rescue program, donating more than 100 million pounds of fresh food to our communities.

Through corporate giving and the work of our two nonprofit foundations – The Kroger Co. Foundation and The Kroger Co. Zero Hunger | Zero Waste Foundation – we direct more than \$300 million annually to partners and causes that align with our mission. Of this, more than 75% supports hunger relief programs to feed individuals and families where we live and work. These totals include generous support from our associates and customers through in-store fundraising programs at checkout. The largest share of corporate funds, in-kind product donations, and customer donations is directed to the Feeding America-affiliated network of local food banks, pantries and agencies in our communities.

Other national organizations receiving significant charitable funds from Kroger include No Kid Hungry, American Red Cross, United Service Organizations (USO), American Heart Association and World Wildlife Fund. Notably, Kroger is the largest cumulative corporate donor to the USO in the organization’s history, showing our long-standing support for the nation’s active-duty military service men and women and their families. At the regional and local levels, we support other nonprofit organizations and causes that matter most to our associates and customers.

Foundation Grants

Kroger provides detailed annual disclosures on the work of our two foundations. **The Kroger Co. Foundation**, the company’s private foundation established in 1987, which focuses grant-making on causes that support hunger relief; sustainability; disaster relief; diversity and inclusion; and education and youth development. The Foundation’s 2022 Report, including grantee highlights and specific grant funding levels across the country, is available here: <https://www.thekrogerco.com/wp-content/uploads/2022/08/Kroger-Co-Foundation-2022-Report.pdf>.

In 2021, the Foundation directed \$12.7 million in grants, of which 58% aligned with hunger relief and sustainability causes, and 24% supported emergency assistance and disaster relief efforts. Specific grants and grant recipients are highlighted in the annual The Kroger Co. Foundation report.

The Kroger Co. Zero Hunger | Zero Waste Foundation, a nonprofit public charity established in 2018, is designed to advance collective action and innovation to build a better food system for the future. More about the Zero Hunger | Zero Waste Foundation is available on its website:

<https://thekrogercozerohungerzerowastefoundation.com/>. More details about the Foundation’s general grant-making and signature program, the Zero Hunger | Zero Waste Innovation Fund, are disclosed in its annual report: <https://www.thekrogerco.com/wp-content/uploads/2022/08/Kroger-Co-Zero-Hunger-Zero-Waste-Foundation-2022-Report.pdf>.

In 2021, the Zero Hunger | Zero Waste Foundation directed \$18 million in grants; of these, 97% aligned to hunger relief and sustainability causes. Grants included \$11.7 million in funds to improve food access and food security and \$4.5 million to advance more sustainable food systems. Grant highlights are included in the Zero Hunger | Zero Waste Foundation report.

Guidelines & Policies:

We follow best practices and specific guidelines when reviewing grant requests. Our Donation Guidelines provide direction on the types of organizations that Kroger supports and, importantly, make clear the types of organizations to which donations will not be granted. We accept and consider donation requests from 501(c)(3) registered nonprofit organizations through an online grant management platform. We use the *Guidestar Charity Check* to confirm they meet all Internal Revenue Service requirements to receive grants and donations. The Donation Guidelines are publicly available on our corporate website: <https://thekrogerco.versaic.com/login?Select-A-Store=Enabled&ReturnTo=/default.aspx>

We do not make charitable donations to individuals, political campaigns, sectarian or religious organizations for projects that serve only its own members or supporters, or organizations that discriminate based on race, color, sex, pregnancy, disability, age, national origin, religion, sexual orientation, gender identity, genetic information or any other characteristic protected by applicable law.

The Company has adequate public disclosures related to its charitable giving areas of focus and annual grant-making.

Kroger recognizes that disclosure of its corporate philanthropic efforts is important and provides stakeholders with an opportunity to review Kroger charitable programs. We believe the extensive information and other disclosures provided in Kroger's annual ESG Report, The Kroger Co. Foundation annual report, The Kroger Co. Zero Hunger | Zero Waste Foundation annual report and our website provide ample disclosures related to our approach to charitable giving, which supports Our Purpose, ESG Strategy, and Zero Hunger | Zero Waste impact plan.

For the foregoing reasons, we urge you to vote AGAINST this proposal.

Item No. 7 Shareholder Proposal — Recyclability of Packaging

We have been advised that As You Sow on behalf of the Michael Monteiro 2016 Trust or an appointed representative, along with one co-filer, will present the following proposal for consideration during the 2023 Annual Shareholders' Meeting.

“WHEREAS: The growing plastic pollution crisis poses increasing risks to Kroger. Corporations could face an annual financial risk of approximately \$100 billion should governments require them to cover the waste management costs of the packaging they produce.¹ New laws to this effect were recently passed in Maine, Oregon, Colorado, and California,² while the European Union has enacted a \$1 per kilogram tax on all non-recycled plastic packaging waste.³

Pew Charitable Trusts released a groundbreaking study, *Breaking the Plastic Wave* ("Pew Report"), concluding that improved recycling is insufficient and at least one-third of overall plastic use must be eliminated to stem the global plastic pollution crisis. It finds that plastic use reduction is the most viable solution from environmental, economic, and social perspectives. Without immediate and sustained new commitments, annual flows of plastics into oceans could nearly triple by 2040.⁴

Kroger has fallen behind its peers in plastic packaging reductions. Kroger is notably absent from the Ellen MacArthur Foundation's Global Commitment to reduce plastic pollution, in which brand signatories have committed to reduce virgin plastic use by an average of 20% by 2025.⁵ The majority of signatories have already reduced their use of plastic packaging over a 2018 baseline.⁶

¹ https://www.pewtrusts.org/-/media/assets/2020/07/breakingtheplasticwave_report.pdf

² <https://www.packworld.com/news/sustainability/article/22419036/four-states-enact-packaging-epr-laws>

³ https://commission.europa.eu/strategy-and-policy/eu-budget/long-term-eu-budget/2021-2027/revenue/own-resources/plastics-own-resource_en

⁴ https://www.pewtrusts.org/-/media/assets/2020/07/breakingtheplasticwave_report.pdf

⁵ <https://emf.thirdlight.com/link/f6oxost9xes0-nsj0qe/@/#id=2>

⁶ <https://emf.thirdlight.com/link/f6oxost9xes0-nsj0qe/@/#id=2>, p. 11

Unilever has taken the most significant action to date, agreeing to cut virgin plastic use by 50% by 2025, including an absolute elimination of 100,000 tons of plastic packaging. At least sixty other consumer goods and retail companies currently have goals to reduce use of virgin plastic packaging, including competitors Walmart and Target.⁷ Kroger has no plastic reduction goal.

Starbucks, Coca-Cola, and Pepsi are leading the industry in reducing disposable packaging, each having set new goals to expand use of zero-waste reusable packaging. As a retail partner of the global reuse platform Loop, Kroger is poised to increase use of reusable packaging, yet has made no commitment to make reusable packaging permanent.

Our company could avoid regulatory, environmental, and competitive risks, and keep up with its peers by, for example, setting new commitments to reduce use of disposable virgin plastic and invest in reusable packaging.

RESOLVED: Shareholders request that the Kroger Board issue a report, at reasonable expense and excluding proprietary information, describing how the Company could reduce its plastics use in alignment with the one-third reduction findings of the Pew Report, or other authoritative sources, to reduce its contribution to ocean plastics pollution.

SUPPORTING STATEMENT: The report should, at Board discretion:

- Assess the reputational, financial, and operational risks associated with continuing to use substantial amounts of single-use plastic packaging while plastic pollution grows;
- Evaluate dramatically reducing the amount of plastic used in our packaging through transitioning to reusables; and
- Describe how the Company can further reduce single-use packaging, including any planned reduction strategies or goals, materials redesign, substitution, or reductions in use of virgin plastic.”

The Board of Directors Recommends a Vote Against This Proposal for the Following Reasons:

The Kroger family of companies is committed to protecting people and our planet by advancing positive change in our company and our communities. Through our Zero Hunger | Zero Waste social and environmental impact plan, we are on a journey to help create communities free of hunger and waste.

Our sustainable packaging commitments

Kroger has focused on improving the environmental attributes of product packaging for many years through a series of ambitious sustainable packaging goals. Our goals demonstrate Kroger’s continued commitment to help create a more circular economy and reduce plastics found in nature by using more sustainable packaging options where feasible; supporting reusable packaging models; using recyclable packaging and incorporating recycled content; and increasing consumer awareness about reuse and recycling.

We are also committed to upholding the highest standards of food safety and quality for our customers. Decisions about *Our Brands* food packaging consider critical attributes needed to protect and preserve food safety, quality, freshness, and affordability as well as to reduce greenhouse gas emissions related to the manufacture and transportation of items.

Kroger’s 2030 sustainable packaging commitments include the following elements:

- Complete an *Our Brands* baseline product packaging footprint to fully understand current packaging impacts.
- Seek to achieve 100% recyclable, compostable and/or reusable packaging for *Our Brands* products.
- Increase recycled content in packaging so that the *Our Brands* product portfolio collectively contains at least 10% recycled content in packaging.
- Reduce unnecessary packaging.

⁷ https://gc-22.emf.org/ppu/?_gl=1*1p3bi1c*_ga*nzEwMDEwNTU0LjE2NjI1NjQ4MTY.*_ga_V32N675KJX*MTY3MTIyMTM1OS4xMS4xLjE2NzEyMjE0OTMuNjAuMC4w

- Increase awareness among Kroger customers about how to properly manage *Our Brands* product packaging at end of life.

Taking Action to Achieve our 2030 Goals

In 2022, we developed our baseline packaging footprint with guidance from a consultant and input from our suppliers and internal subject matter experts. We found that 40% of *Our Brands* product packaging meets our definition of recyclable, when measured by weight of packaging material. In addition, the packaging portfolio captured in our baseline includes 14% post-consumer recycled content (PCR) material. We plan to update and refine our packaging baseline over time to track goal progress and inform goal achievement.

In 2023, we are continuing our work to build a roadmap to achieving our goals by 2030 and prioritize opportunities to adjust our packaging and/or support infrastructure changes. Our roadmap will also accommodate changes required by packaging legislation in the states and municipalities in which Kroger operates. In addition, the packaging baseline will inform any adjustments or refinements to our current goals.

More detailed information about our packaging baseline and key action steps to increase packaging sustainability is available in our 2022 Environmental, Social & Governance (ESG) report (<https://www.thekrogerco.com/wp-content/uploads/2022/08/Kroger-Co-2022-ESG-Report.pdf>).

We continue to evaluate and implement opportunities to reduce plastic use and improve end-of-life management opportunities for product packaging. Examples include:

Plastic Reduction & Circularity:

- In 2022, Kroger added 50% post-consumer recycled content (PCR) PET plastic to a new line of *Our Brands* spice products. We continue to pilot different levels of PCR material in our product packaging, particularly in those products that are subject to packaging legislation, evaluating factors such as function, shelf-life, and aesthetic.
- Kroger-operated manufacturing plants continue to reduce plastic use and packaging weights for *Our Brands* items, where feasible. Last year, we reduced the amount of plastic used in our carbonated soft drinks and cultured dairy tub product packages, saving approximately 450,000 pounds of plastic annually.
- Kroger was the first U.S. grocery retail partner for the innovative Loop reusable packaging platform. In 2022, Kroger conducted a pilot at 25 Fred Meyer stores in the Portland, OR, area, selling more than 20 items representing popular brands, to gauge consumer response to this alternative to single-use packaging. Our pilot collected valuable insights on what may be needed to scale reusable packaging solutions in our industry.

End-of-Life Solutions:

- We continue to offer the Kroger *Our Brands* packaging recycling program so our customers can collect flexible plastic packaging and mail it free of charge to TerraCycle for recycling. Kroger is the first retailer to offer this type of recycling program across an entire private-label portfolio. Program engagement and recycling volume continues to grow, with Kroger customers returning more than 1 million packages—the equivalent of more than 22,000 pounds of plastic—to date.
- Kroger continued adding the How2Recycle logo to *Our Brands* items to increase our customers' awareness of how to recycle product packaging, including those items eligible for front-of-store plastic film recycling programs—which we offer across the enterprise.
- The Kroger Co. Zero Hunger | Zero Waste Foundation supports the multi-stakeholder Polypropylene Recycling Coalition, facilitated by The Recycling Partnership, which aims to improve community-level infrastructure to enable curbside polypropylene collection and recycling. In 2022, the Foundation expanded this support to help fund the PET Recycling Coalition, which aims to increase the recyclability of PET (polyethylene terephthalate) plastic packaging.

- Kroger is the Grocery Sector Lead partner for Closed Loop Partners' Beyond the Bag Initiative, launched by the Consortium to Reinvent the Retail Bag. This multi-year collaboration across retail sectors aims to identify, test and implement innovative new design solutions to replace the single-use plastic retail shopping bag.

Given the above progress on our sustainable packaging roadmap, including detailed reporting available in Kroger's 2022 ESG Report, we don't believe additional reporting on packaging and plastics use is additive at this time.

For the foregoing reasons, we urge you to vote AGAINST this proposal.

Item No. 8 Report on Racial and Gender Pay Gaps

We have been advised that Arujna Capital on behalf of Susan Silver or an appointed representative along with one co-filer will present the following proposal for consideration during the 2023 Annual Shareholders' Meeting.

"Whereas: Pay inequities persist across race and gender and pose substantial risks to companies and society. Black workers' hourly median earnings represent 64 percent of white wages. The median income for women working full time is 83 percent that of men. Intersecting race, Black women earn 63 percent, Native women 60 percent, and Latina women 55 percent. At the current rate, women will not reach pay equity until 2059, Black women in 2130, and Latina women in 2224.¹

Citigroup estimates closing minority and gender wage gaps 20 years ago could have generated 12 trillion dollars in additional national income. PwC estimates closing the gender pay gap could boost Organization for Economic Cooperation and Development (OECD) countries' economies by 2 trillion dollars annually.²

Actively managing pay equity is associated with improved representation. Diversity in leadership is linked to superior stock performance and return on equity.³ Minorities represent 38.5 percent of Kroger's workforce and 26 percent of Store Leaders. Women represent 50.5 percent of the workforce and 33 percent of Store Leaders.⁴

Best practice pay equity reporting consists of two parts:

1. *unadjusted* median pay gaps, assessing equal opportunity to high paying roles,
2. statistically *adjusted* gaps, assessing whether minorities and non-minorities, men and women, are paid the same for similar roles.

Kroger does not report quantitative unadjusted or adjusted pay gaps. Over 20 percent of the 100 largest U.S. employers currently report adjusted gaps, and an increasing number of companies disclose unadjusted gaps to address the structural bias women and minorities face regarding job opportunity and pay.⁵

Racial and gender *unadjusted* median pay gaps are accepted as *the* valid way of measuring pay inequity by the United States Census Bureau, Department of Labor, OECD, and International Labor Organization. The United Kingdom and Ireland mandate disclosure of median pay gaps, and the United Kingdom is considering racial pay reporting.⁶

Resolved: Shareholders request The Kroger Co. report on both quantitative *median and adjusted* pay gaps across race and gender, including associated policy, reputational, competitive, and operational risks, and risks related to recruiting and retaining diverse talent. The report should be prepared at reasonable cost, omitting proprietary information, litigation strategy and legal compliance information.

¹<https://static1.squarespace.com/static/5bc65db67d0c9102cca54b74/t/622f4567fae4ea772ae60492/1647265128087/Racial+Gender+Pay+Scorecard+2022+-+Arjuna+Capital.pdf>

² Ibid.

³ Ibid.

⁴ <https://www.thekrogerco.com/wp-content/uploads/2022/08/Kroger-Co-2022-ESG-Report.pdf>

⁵ <https://diversiq.com/which-sp-500-companies-disclose-gender-pay-equity-data/>

⁶<https://static1.squarespace.com/static/5bc65db67d0c9102cca54b74/t/622f4567fae4ea772ae60492/1647265128087/Racial+Gender+Pay+Scorecard+2022+-+Arjuna+Capital.pdf>

Racial/gender pay gaps are defined as the difference between non-minority and minority/male and female *median* earnings expressed as a percentage of non-minority/male earnings (Wikipedia/OECD, respectively).

Supporting Statement: An annual report adequate for investors to assess performance could, with board discretion, integrate base, bonus and equity compensation to calculate:

- percentage median and adjusted gender pay gap, globally and/or by country, where appropriate
- percentage median and adjusted racial/minority/ethnicity pay gap, US and/or by country, where appropriate”

The Board of Directors Recommends a Vote Against This Proposal for the Following Reasons:

Kroger welcomes associates from every race, culture, gender and ability, and is actively creating and maintaining an equitable workplace where every associate is empowered, supported, and feels valued and a sense of belonging. Our aspiration is for the demographic representation of women and people of color to reflect our communities, at both the organization-wide and local levels.

Kroger already has an established approach to pay equity. Kroger has been performing an annual pay equity analysis since 2016, which takes into consideration gender and race for all salaried roles. We review our pay equity analysis annually with the Compensation and Talent Development Committee of the Board of Directors. The organization also equips and enables our leaders to promote pay equity and transparency. We have robust and comprehensive pay administration guidelines for non-bargaining-unit employees, enabling our managers to effectively manage compensation throughout the year to reward performance and address progression within pay ranges. In addition to these guidelines, we provide additional training to managers in preparation for annual compensation planning.

Kroger provides robust disclosure of representation annually. Kroger consistently discloses and discusses its diverse associate representation in the organization’s annual ESG Report. We publish our annual EEO-1 reports as filed with the EEOC (<https://www.thekrogerco.com/wp-content/uploads/2022/08/EEO-1-2021.pdf>). In addition, Kroger provides a detailed discussion of our workforce strategy and total rewards and benefits approach in our Annual Report and Form 10-K. The organization also discusses its approach to Human Capital Management in its annual ESG report. The report, available on www.thekrogerco.com/esgreport, includes disclosures related to associate health and safety; Kroger’s *Framework for Action: Diversity, Equity & Inclusion* plan; talent attraction and retention; and labor relations.

The majority of Kroger’s workforce is covered under collective bargaining agreements, which facilitate pay equity for frontline associates. Kroger’s compensation structure supports fair pay. Wages, health care and pensions are included in more than 354 collective bargaining agreements that cover approximately 64% of our associates. The negotiated pay structures within those agreements facilitate standard and consistent pay progression based on tenure and experience. Pay is determined using structured wage progressions where an associate moves through the progression based on time in role or hours worked. Associates move through the wage progression based on the same definitions and criteria as other associates working in the same roles. Pay parity is promoted within the model because of the structured wage grids and inherent progression framework.

Non-union hourly roles follow similar wage progressions. Where we use a pay-for-performance model for non-union, hourly roles, those workplaces follow compensation guidelines that provide for a framework of tying pay to performance and using pay levels.

Kroger provides comprehensive benefits for associates. The organization has invested an incremental \$1.9 billion in associate wages and training since 2018. This has increased our national average hourly rate of pay from \$13.66 to \$18, or \$23.50 per hour with comprehensive benefits.

Kroger has announced plans to continue investing in wages, with plans for a more than \$770 million incremental investment in associates during 2023.

In addition to market-competitive wages, our associates have access to a wide variety of benefits that provide value in their lives today and in the future. We invest in the whole person with a benefits package that generally includes:

quality, affordable healthcare; retirement savings plans and pension plans; on-demand access to mental health assistance and free counseling to support emotional wellness; career advancement opportunities; financial education programs to help associates manage their day-to-day finances; and an industry-leading continuing education benefit that provides up to \$21,000 for associates, part-time and full-time alike, which, along with scholarships for children of associates — most of whom are first-generation college attendees — provide pathways to social mobility to associates who choose to participate. We also offer associates a variety of grocery discounts, volunteer opportunities, and other perks and rewards.

Diversity and inclusion are part of Kroger's core organizational values, and the organization has strong programs in place to create and maintain an equitable workplace and inclusive culture.

Diversity and inclusion have been longstanding Kroger values. In 2020, we introduced Kroger's *Framework for Action* to further advance diversity, equity and inclusion in our culture and communities. The plan's action steps include creating a DE&I advisory council reporting to senior leadership, providing diversity training to our associate population, improving diverse talent recruiting through expanded partnerships with HBCUs and Hispanic-serving institutions, establishing two-way mentorship and advocacy programs, increasing spend with diverse suppliers, and more. We report progress against these goals in Kroger's annual ESG report.

Kroger strives to attract, retain and develop leaders and associates who best reflect our communities. Because of our unique business model, we help unlock economic opportunity for nearly half a million people of various ages and aspirations, from those wanting an entry-level part-time job to graduate-degree specialists across corporate functions. We also aim to develop and promote diverse leaders to roles with increasing levels of responsibility. For open leadership positions, we assemble a diverse slate of candidates for consideration.

In 2022, every manager across the organization was expected to actively mentor and develop an associate who has a different background than them. This, along with other objectives, is used to assess the manager's performance and ultimately affects their compensation. Currently, over 80% of retail division executive leadership teams have at least one diverse leader.

We believe that Kroger's current compensation practices promote diversity, inclusion and fair pay across our workforce. While Kroger welcomes continued engagement with shareholders on these issues, we believe that the adoption of this proposal is not necessary in light of our existing practices.

For the foregoing reasons, we urge you to vote AGAINST this proposal.

Item No. 9 – Report on EEO Policy Risks

We have been advised that the National Center for Public Policy Research or an appointed representative will present the following proposal for consideration during the 2023 Annual Shareholders' Meeting. We will promptly provide the shareholdings upon written or oral request to Kroger's Secretary at our executive offices.

"RESOLVED

Shareholders request the Kroger Company ("Kroger") issue a public report detailing the potential risks associated with omitting "viewpoint" and "ideology" from its written equal employment opportunity (EEO) policy. The report should be available within a reasonable timeframe, prepared at a reasonable expense and omit proprietary information.

SUPPORTING STATEMENT

Kroger does not explicitly prohibit discrimination based on viewpoint or ideology in its written EEO policy.

Kroger's lack of a company-wide best practice EEO policy sends mixed signals to company employees and prospective employees and calls into question the extent to which individuals are protected due to inconsistent state policies and the absence of a relevant federal protection. Approximately half of Americans live and work in a jurisdiction with no legal protections if their employer takes action against them for their political activities or discriminates on the basis of viewpoint in the workplace.

Companies with inclusive policies are better able to recruit the most talented employees from a broad labor pool, resolve complaints internally to avoid costly litigation or reputational damage, and minimize employee turnover. Moreover, inclusive policies contribute to more efficient human capital management by eliminating the need to maintain different policies in different locations.

There is ample evidence that individuals with conservative viewpoints may face discrimination at Kroger.

Kroger recently kowtowed to leftwing social media criticism by removing patriotic and Second Amendment related paraphernalia from store shelves. For instance, after someone complained on Twitter about a drink sleeve that stated, "Arms Change, Rights Don't", the Company reportedly recalled the items.¹ Kroger's subsidiary grocery store, Harris Teeter, likewise complied with liberal demands to pull "Freedom Series" items from its shelves, removing items that read, "Give me liberty or give me death" and "America, love it or leave it."²

While removing patriotic items from its stores, Kroger has simultaneously pushed a leftwing social agenda. Published in 2021, the Company released an "allyship guide" that told employees to use "inclusive language" and celebrate transgender holidays.³ Defining terms such as "non-binary," "transgender," and "pansexual," the guide asserts that, "Some people's morality can be a barrier to accepting LGBTQ+ people."⁴

Removing pro-America items from store shelves while publishing "allyship" training guides for staff certainly raise concerns over how Kroger treats employees with diverse points of view, particularly those who disagree with the Company's blatant leftwing actions. This places the Company in reputational, legal, and financial risk, as evidenced by a recent settlement with fired employees who refused to wear a Company issued apron adorning a rainbow on account of it violating their religious beliefs.⁵

Presently, shareholders are unable to evaluate how Kroger prevents discrimination towards employees based on their ideology or viewpoint, mitigates employee concerns of potential discrimination, and ensures a respectful and supportive work atmosphere that bolsters employee performance.

We recommend that the report evaluate risks including, but not limited to, negative effects on employee hiring and retention, as well as litigation risks from conflicting state and company anti-discrimination policies."

The Board of Directors Recommends a Vote Against This Proposal for the Following Reasons:

Kroger strives to reflect the communities we serve and foster a culture that empowers everyone to be their true self, inspires collaboration, and feeds the human spirit.

We are committed to a policy of equal opportunity for all associates without regard to race, color, religion, sex, national origin, age, disability, sexual orientation, or gender identity. In implementing our policy, we seek and embrace differences in the backgrounds, cultures, and perspectives of all associates, and we encourage and expect all of our associates to collaborate and actively work together regardless of these differences. Moreover, as we identify in our ESG Report, our diversity, equity and inclusion (DE&I) programs demonstrate our commitment to building a diverse and inclusive workforce, fostering an environment where diversity is a competitive advantage and providing equal opportunities for associates.

We are focused on creating a culture of fairness and respect.

Our formal DE&I Framework for Action, launched in 2020, is focused on creating a more inclusive culture and advancing equitable communities, among other goals, underscoring Kroger's commitment to standing together and mobilizing our people, passion, scale and resources to transform our culture and our communities. The framework is

¹ <https://www.bizpacreview.com/2022/06/21/harris-teeter-kroger-remove-pro-america-items-from-shelves-after-woke-complaints-backlash-is-swift-1252599/>; <https://www.foxbusiness.com/retail/harris-teeter-kroger-backlash-pro-america-items-complaints>

² <https://www.bizpacreview.com/2022/06/21/harris-teeter-kroger-remove-pro-america-items-from-shelves-after-woke-complaints-backlash-is-swift-1252599/>; <https://www.foxbusiness.com/retail/harris-teeter-kroger-backlash-pro-america-items-complaints>

³ <https://www.breitbart.com/social-justice/2022/08/31/kroger-allyship-guide-tells-employees-to-celebrate-trans-holidays-support-bail-fund/>

⁴ https://www.thekrogerco.com/wp-content/uploads/2021/03/AAPI-Allyship-Guide_v3.2-External-merged.pdf

⁵ <https://news.yahoo.com/kroger-pay-180k-lawsuit-over-162047710.html>

built around pillars focused on creating a more inclusive culture, developing diverse talent, advancing diverse partnerships, advancing equitable communities and deeply listening and reporting progress.

In particular, we understand that our associates have a wide range of viewpoints. We are committed to a culture of fairness, respect and inclusion that drives us to value and embrace differences. As part of our Framework for Action, we are engaging with external and internal stakeholders to seek perspectives and provide associates with platforms to continue sharing their stories and feedback. To that end, Kroger launched an internal DEI Advisory Council made up of cross-functional leaders who are committed to advancing this progress, working closely with senior officers and business leaders to identify opportunities and specific actions for improvement, as well as the Board's Compensation & Talent Development Committee overseeing progress on our human capital efforts, including DEI.

Diverse viewpoints are respected and encouraged.

Our policies and practices demonstrate that diverse viewpoints are respected and encouraged and are an essential part of advancing our business. In light of our demonstrated commitment to our core values of diversity and inclusion for all stakeholders, we do not believe that issuing a public report detailing the potential risks associated with omitting 'viewpoint' and 'ideology' from our equal employment opportunity policy, as contemplated by this proposal, is necessary or in the best interests of Kroger or our shareholders.

For the foregoing reasons, we urge you to vote AGAINST this proposal.

Shareholder Proposals and Director Nominations — 2024 Annual Meeting

Pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, as amended, shareholder proposals intended for inclusion in the proxy material relating to Kroger's annual meeting of shareholders in June 2024 should be addressed to Kroger's Secretary and must be received at our executive offices not later than January 13, 2024. These proposals must comply with Rule 14a-8 and the SEC's proxy rules. If a shareholder submits a proposal outside of Rule 14a-8 for the 2023 annual meeting and such proposal is not delivered within the time frame specified in the Regulations, Kroger's proxy may confer discretionary authority on persons being appointed as proxies on behalf of Kroger to vote on such proposal.

In addition, Kroger's Regulations contain an advance notice of shareholder business and director nominations requirement, which generally prescribes the procedures that a shareholder of Kroger must follow if the shareholder intends, at an annual meeting, to nominate a person for election to Kroger's Board of Directors or to propose other business to be considered by shareholders. These procedures include, among other things, that the shareholder give timely notice to Kroger's Secretary of the nomination or other proposed business, that the notice contain specified information, and that the shareholder comply with certain other requirements. In order to be timely, this notice must be delivered in writing to Kroger's Secretary, at our principal executive offices, not later than 45 calendar days prior to the date on which our proxy statement for the prior year's annual meeting of shareholders was mailed to shareholders. If a shareholder's nomination or proposal is not in compliance with the procedures set forth in the Regulations, we may disregard such nomination or proposal. Accordingly, if a shareholder intends, at the 2024 Annual Meeting, to nominate a person for election to the Board of Directors or to propose other business, the shareholder must deliver a notice of such nomination or proposal to Kroger's Secretary not later than March 28, 2024 and comply with the requirements of the Regulations.

Furthermore, in addition to the requirements of SEC Rule 14a-8 or our Regulations, as applicable, as described above, to comply with the universal proxy rules, shareholders who intend to solicit proxies in support of director nominees other than our nominees must provide notice to Kroger's Secretary that sets forth the information required by Rule 14a-19 of the Exchange Act no later than April 23, 2024, and must comply with the additional requirements of Rule 14a-19(b).

Eligible shareholders may also submit director nominees for inclusion in our proxy statement for the 2024 annual meeting of shareholders. To be eligible, shareholders must have owned at least three percent of our common shares for at least three years. Up to 20 shareholders will be able to aggregate for this purpose. Nominations must be submitted to our Corporate Secretary at our principal executive offices no earlier than December 14, 2023 and no later than January 13, 2024.

Shareholder proposals, director nominations, including, if applicable pursuant to proxy access, and advance notices must be addressed in writing, and addressed and delivered timely to: Corporate Secretary, The Kroger Co., 1014 Vine Street, Cincinnati, Ohio 45202-1100.

Householding of Proxy Materials

We have adopted a procedure approved by the SEC called “householding.” Under this procedure, shareholders of record who have the same address and last name will receive only one copy of the proxy materials unless one or more of these shareholders notifies us that they wish to continue receiving individual copies. This procedure will reduce our printing costs and postage fees. Householding will not in any way affect dividend check mailings.

If you are eligible for householding, but you and other shareholders of record with whom you share an address currently receive multiple copies of our proxy materials or if you hold in more than one account, and in either case you wish to receive only a single copy for your household or if you prefer to receive separate copies of our documents in the future, please contact your bank or broker, or contact Kroger’s Secretary at 1014 Vine Street, Cincinnati, Ohio 45202 or via telephone at 513-762-4000.

Beneficial shareholders can request information about householding from their banks, brokers or other holders of record.

The management knows of no other matters that are to be presented at the meeting, but, if any should be presented, the Proxy Committee expects to vote thereon according to its best judgment.

Available Information

The Company files Annual Reports on Form 10-K with the Securities and Exchange Commission. A copy of the Annual Report on Form 10-K for the fiscal year ended January 28, 2023 (except for certain exhibits thereto), including our audited financial statements and financial statement schedules, may be obtained, free of charge, upon written request by any shareholder to Kroger’s Secretary at 1014 Vine Street, Cincinnati, Ohio 45202 or via telephone at 513-762-4000. Copies of all exhibits to the Annual Report on Form 10-K are available upon a similar request, subject to reimbursing the Company for its expenses in supplying any exhibit.

By order of the Board of Directors,
Christine S. Wheatley, Secretary

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
FORM 10-K

(Mark One)

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended January 28, 2023.

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission file number 1-303

THE KROGER CO.

(Exact name of registrant as specified in its charter)

Ohio

(State or Other Jurisdiction of Incorporation or Organization)

31-0345740

(I.R.S. Employer Identification No.)

1014 Vine Street, Cincinnati, OH

(Address of Principal Executive Offices)

45202

(Zip Code)

Registrant's telephone number, including area code **(513) 762-4000**

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol	Name of each exchange on which registered
Common, \$1.00 Par Value	KR	New York Stock Exchange

Securities registered pursuant to Section 12(g) of the Act:

NONE

(Title of class)

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.

Yes No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act.

Yes No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files).

Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report.

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements.

Yes No

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to §240.10D-1(b).

Yes No

Indicate by check mark whether the registrant is a shell company (as defined by Rule 12b-2 of the Exchange Act).

Yes No

The aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the average bid and asked price of such common equity, as of the last business day of the registrant's most recently completed second fiscal quarter (August 13, 2022). \$33.6 billion.

The number of shares outstanding of the registrant's common stock, as of the latest practicable date. 717,467,532, shares of Common Stock of \$1 par value, as of March 22, 2023.

Documents Incorporated by Reference:

Portions of Kroger's definitive proxy statement for its 2023 annual meeting of shareholders, which shall be filed with the Securities and Exchange Commission within 120 days after the end of the fiscal year to which this Report relates, are incorporated by reference into Part III of this Report.

The Kroger Co.
Form 10-K
For the Fiscal Year Ended January 28, 2023

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PART I

FORWARD LOOKING STATEMENTS.

This Annual Report on Form 10-K contains forward-looking statements about our future performance. These statements are based on our assumptions and beliefs in light of the information currently available to us. These statements are subject to a number of known and unknown risks, uncertainties and other important factors, including the risks and other factors discussed in “Risk Factors” below, that could cause actual results and outcomes to differ materially from any future results or outcomes expressed or implied by such forward looking statements. Such statements are indicated by words such as “achieve,” “affect,” “anticipate,” “believe,” “committed,” “continue,” “could,” “deliver,” “effect,” “enable,” “estimate,” “expects,” “future,” “goal,” “growth,” “intended,” “likely,” “may,” “model,” “objective,” “plan,” “position,” “program,” “range,” “result,” “strategy,” “strive,” “strong,” “target,” “trend,” “will” and “would,” and similar words or phrases. Moreover, statements in the sections entitled Risk Factors, Management’s Discussion and Analysis of Financial Condition and Results of Operations (“MD&A”), and elsewhere in this report regarding our expectations, projections, beliefs, intentions or strategies are forward-looking statements within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended.

Various uncertainties and other factors could cause actual results to differ materially from those contained in the forward-looking statements. These include:

- The extent to which our sources of liquidity are sufficient to meet our requirements may be affected by the state of the financial markets and the effect that such condition has on our ability to issue commercial paper at acceptable rates. Our ability to borrow under our committed lines of credit, including our bank credit facilities, could be impaired if one or more of our lenders under those lines is unwilling or unable to honor its contractual obligation to lend to us, or in the event that global pandemics, including the ongoing COVID-19 pandemic (including any variant), natural disasters or weather conditions interfere with the ability of our lenders to lend to us. Our ability to refinance maturing debt may be affected by the state of the financial markets.

- Our ability to achieve sales, earnings and incremental FIFO operating profit goals may be affected by: the risks relating to or arising from our proposed transaction with Albertsons Companies, Inc. (“Albertsons”) announced in October 2022, including, among others, our ability to consummate the proposed transaction, including on the terms of the merger agreement, on the anticipated timeline, and/or with the required regulatory approvals; COVID-19 pandemic related factors, risks and challenges; labor negotiations; potential work stoppages; changes in the unemployment rate; pressures in the labor market; changes in government-funded benefit programs; changes in the types and numbers of businesses that compete with us; pricing and promotional activities of existing and new competitors, including non-traditional competitors, and the aggressiveness of that competition; our response to these actions; the state of the economy, including interest rates, the current inflationary environment and future potential inflationary and/or deflationary trends and such trends in certain commodities, products and/or operating costs; the geopolitical environment including the war in Ukraine; unstable political situations and social unrest; changes in tariffs; the effect that fuel costs have on consumer spending; volatility of fuel margins; manufacturing commodity costs; supply constraints; diesel fuel costs related to our logistics operations; trends in consumer spending; the extent to which our customers exercise caution in their purchasing in response to economic conditions; the uncertainty of economic growth or recession; stock repurchases; changes in the regulatory environment in which we operate; our ability to retain pharmacy sales from third party payors; consolidation in the healthcare industry, including pharmacy benefit managers; our ability to negotiate modifications to multi-employer pension plans; natural disasters or adverse weather conditions; the effect of public health crises or other significant catastrophic events; the potential costs and risks associated with potential cyber-attacks or data security breaches; the success of our future growth plans; the ability to execute our go-to-market strategy and value creation model, including continued cost savings, growth of our alternative profit businesses, and our ability to better serve our customers and to generate customer loyalty and sustainable growth through our strategic pillars of fresh, *Our Brands*, personalization, and seamless; and the successful integration of merged companies and new partnerships.
- Our ability to achieve these goals may also be affected by our ability to manage the factors identified above. Our ability to execute our financial strategy may be affected by our ability to generate cash flow.
- Our effective tax rate may differ from the expected rate due to changes in tax laws, the status of pending items with various taxing authorities, and the deductibility of certain expenses.

We cannot fully foresee the effects of changes in economic conditions on our business.

Other factors and assumptions not identified above, including those discussed in Part 1, Item 1A of this Annual Report, could also cause actual results to differ materially from those set forth in the forward-looking information. Accordingly, actual events and results may vary significantly from those included in, contemplated or implied by forward-looking statements made by us or our representatives. We undertake no obligation to update the forward-looking information contained in this filing.

Our ability to complete our proposed transaction with Albertsons may be affected by various factors, including those set forth in Part I, Item 1A of this Annual Report. Risk Factors included in this Annual Report on Form 10-K and other factors as may be described in subsequent filings with the SEC.

ITEM 1. BUSINESS.

The Kroger Co. (the “Company” or “Kroger”) was founded in 1883 and incorporated in 1902. Our Company is built on the foundation of our food retail business, which includes the added convenience of our retail pharmacies and fuel centers. Our strategy is focused on growing customer loyalty by delivering great value and convenience, and investing in four strategic pillars: Fresh, *Our Brands*, Data & Personalization and Seamless.

We also utilize the data and traffic generated by our retail business to deliver incremental value and services for our customers that generates alternative profit streams. These alternative profit streams would not exist without our core retail business.

Our revenues are predominately earned and cash is generated as consumer products are sold to customers in our stores, fuel centers and via our online platforms. We earn income predominately by selling products at price levels that produce revenues in excess of the costs we incur to make these products available to our customers. Such costs include procurement and distribution costs, facility occupancy and operational costs, and overhead expenses. Our fiscal year ends on the Saturday closest to January 31. All references to 2022, 2021 and 2020 are to the fiscal years ended January 28, 2023, January 29, 2022 and January 30, 2021, respectively, unless specifically indicated otherwise.

We maintain a web site (www.thekrogerco.com) that includes the Kroger Fact Book and other additional information about the Company. Kroger's website and any reports or other information made available by Kroger through its website are not part of or incorporated by reference into this Annual Report on Form 10-K. We make available through our web site, free of charge, our annual reports on Form 10-K, our quarterly reports on Form 10-Q, our current reports on Form 8-K and our interactive data files, including amendments. These forms are available as soon as reasonably practicable after we have filed them with, or furnished them electronically to, the SEC.

Kroger is diversified across brands, product categories, channels of distribution, geographies and consumer demographics. Our combination of assets include the following:

Stores

As of January 28, 2023, Kroger operates supermarkets under a variety of local banner names in 35 states and the District of Columbia. As of January 28, 2023, Kroger operated, either directly or through its subsidiaries, 2,719 supermarkets, of which 2,252 had pharmacies and 1,637 had fuel centers. Approximately 50% of our supermarkets were operated in Company-owned facilities, including some Company-owned buildings on leased land. Our stores operate under a variety of banners that have strong local ties and brand recognition. We connect with customers through our expanding seamless ecosystem and the consistent delivery of a full, fresh, and friendly customer experience. Fuel sales are an important part of our revenue, net earnings and loyalty offering. Our fuel strategy is to include a fuel center at each of our supermarket locations when it is feasible and it is expected to be profitable. Each fuel center typically includes 5 to 10 islands of fuel dispensers and storage tanks with capacity for 40,000 to 50,000 gallons of fuel. Supermarkets are generally operated under one of the following formats: combination food and drug stores ("combo stores"); multi-department stores; marketplace stores; or price impact warehouses.

The combo store is the primary food store format. We believe this format is successful because the stores are large enough to offer the specialty departments that customers desire for one-stop shopping, including natural food and organic sections, pharmacies, general merchandise, pet centers and high-quality perishables such as fresh seafood and organic produce.

Multi-department stores are significantly larger in size than combo stores. In addition to the departments offered at a typical combo store, multi-department stores sell a wide selection of general merchandise items such as apparel, home fashion and furnishings, outdoor living, electronics, automotive products and toys.

Marketplace stores are smaller in size than multi-department stores. They offer full-service grocery, pharmacy and health and beauty care departments as well as an expanded perishable offering and general merchandise area that includes apparel, home goods and toys.

Price impact warehouse stores offer a "no-frills, low cost" warehouse format and feature everyday low prices plus promotions for a wide selection of grocery and health and beauty care items. Quality meat, dairy, baked goods and fresh produce items provide strategic differentiation for price impact warehouse stores. The average size of a price impact warehouse store is similar to that of a combo store.

Seamless Digital Ecosystem

We offer a convenient shopping experience for our customers regardless of how they choose to shop with us, including Pickup, Delivery and Ship. We offer Pickup and Harris Teeter ExpressLane™ — personalized, order online, pick up at the store services — at 2,274 of our supermarkets and provide Delivery, which allows us to offer digital solutions to substantially all of our customers. Our Delivery solutions include orders delivered to customers from retail store locations and customer fulfillment centers powered by Ocado. These channels allow us to serve customers anything, anytime, and anywhere with zero compromise on selection, convenience, and price. We also provide relevant customer-facing apps and interfaces that have the features customers want that are also reliable, easy to use and deliver a seamless customer experience across our store and digital channels.

Merchandising and Manufacturing

Our Brands products play an important role in our merchandising strategy and represented over \$30 billion of our sales in 2022. Our supermarkets, on average, stock over 13,500 private label items. *Our Brands* products are primarily produced and sold in three “tiers.” Private Selection® is our main premium quality brand, offering customers culinary foods and ingredients that deliver amazing eating experiences. The Kroger® brand, which represents the majority of our private label items, is designed to consistently satisfy and delight customers with quality products that exceed or meet the national brand in taste and efficacy, as well as with unique and differentiated products. Big K®, Smart Way® and Heritage Farm® are some of our value brands, designed to deliver good quality at a very affordable price. In addition to our three “tiers,” *Our Brands* offers customers a variety of natural and organic products with Simple Truth® and Simple Truth Organic®. Both Simple Truth and Simple Truth Organic are free from a defined list of artificial ingredients that some customers have told us they do not want in their food, and the Simple Truth Organic products are USDA certified organic.

Approximately 30% of *Our Brands* units and 42% of the grocery category *Our Brands* units sold in our supermarkets are produced in our food production plants; the remaining *Our Brands* items are produced to our strict specifications by outside manufacturers. We perform a “make or buy” analysis on *Our Brands* products and decisions are based upon a comparison of market-based transfer prices versus open market purchases. As of January 28, 2023, we operated 33 food production plants. These plants consisted of 14 dairies, 9 deli or bakery plants, five grocery product plants, two beverage plants, one meat plant and two cheese plants.

Our Data

The traffic and data generated by our retail supermarket business, including pharmacies and fuel centers, is enabling this transformation. Kroger serves approximately 60 million households annually and because of our rewards program, over 90% of customer transactions are tethered to a Kroger loyalty card. Our 20 years of investment in data science capabilities is allowing us to utilize this data to create personalized experiences and value for our customers and is also enabling our fast-growing, high operating margin alternative profit businesses, including data analytic services and third party media revenue. Our retail media business – Kroger Precision Marketing – provides differentiated media capabilities for our consumer packaged goods partners and is a key driver of our digital profitability and alternative profit.

Proposed Merger with Albertsons

As previously disclosed, on October 13, 2022, we entered into a merger agreement with Albertsons. The proposed merger is expected to accelerate our go-to-market strategy that includes Fresh, *Our Brands*, Personalization and Seamless, and continue our track record of investments across lowering prices, enhancing the customer experience, and increasing associate wages and benefits. For additional information about the proposed merger with Albertsons, see Note 16 to the Consolidated Financial Statements.

SEGMENTS

We operate supermarkets, multi-department stores and fulfillment centers throughout the United States. Our retail operations, which represent 97% of our consolidated sales, is our only reportable segment. We aggregate our operating divisions into one reportable segment due to the operating divisions having similar economic characteristics with similar long-term financial performance. In addition, our operating divisions offer customers similar products, have similar distribution methods, operate in similar regulatory environments, purchase the majority of the merchandise for retail sale from similar (and in many cases identical) vendors on a coordinated basis from a centralized location, serve similar types of customers, and are allocated capital from a centralized location. Our operating divisions are organized primarily on a geographical basis so that the operating division management team can be responsive to local needs of the operating division and can execute company strategic plans and initiatives throughout the locations in their operating division. This geographical separation is the primary differentiation between these retail operating divisions. The geographical basis of organization reflects how the business is managed and how our Chief Executive Officer, who acts as our chief operating decision maker, assesses performance internally. All of our operations are domestic. Revenues, profits and losses and total assets are shown in our Consolidated Financial Statements set forth in Item 8 below.

SEASONALITY

The majority of our revenues are generally not seasonal in nature. However, revenues tend to be higher during the major holidays throughout the year. Additionally, certain significant events including inclement weather systems, particularly winter storms, tend to affect our sales trends.

HUMAN CAPITAL MANAGEMENT

Our People

We want Kroger to be a place where our customers love to shop and associates love to work. This is why we aim to create working environments where associates feel encouraged and supported to be their best selves every day. As of January 28, 2023, Kroger employed nearly 430,000 full- and part-time employees. Our people are essential to our success, and we focus intentionally on attracting, developing and engaging a diverse workforce that represents the communities we serve. We strive to create a culture of opportunity and take seriously our role as a leading employer in the United States. Kroger has provided a large number of people with first jobs, new beginnings and lifelong careers. We have long been guided by our core values – Honesty, Integrity, Respect, Safety, Diversity and Inclusion.

Attracting & Developing Our Talent

To deliver on our customers' experiences, we continually improve how we attract and retain talent. In addition to competitive wages, quality benefits and a safe work environment, we offer a broad range of employment opportunities for workers of all ages and aspirations. Many supermarket roles offer opportunities to learn new skills, grow and advance careers.

Associates at all levels of the Company have access to training and education programs to build their skills and prepare for the roles they want. In 2023, we expect to spend approximately \$175 million on training our associates through onboarding, leadership development programs, and programs designed to upskill associates across the Company. We continue to invest in new platforms and applications to make learning more accessible to our associates.

Beyond our own programs, associates can take advantage of our tuition reimbursement benefit, which offers up to \$3,500 annually — \$21,000 over the course of employment — toward continuing education. These funds can be applied to education programs like certifications, associate or graduate degrees. Approximately 5,000 associates, 90% of whom are hourly, have taken advantage of our tuition reimbursement program in 2022. Kroger has invested more than \$50 million in this program since it launched in 2018.

Rewarding Our Associates

As we continue to operate in a challenging labor market, we are dedicated to attracting and retaining the right talent across the organization to be able to continue delivering for our customers. We are investing in our associates by expanding our industry-leading benefits, including continuing education, training and development, health and wellness. During 2022, we raised our average hourly rates by more than 6% and have now invested an incremental \$1.9 billion in associate wages since 2018. Our average hourly rate is now more than \$18 and more than \$23, when comprehensive benefits are included. We are committed to sustainably increasing associate wages and plan to invest more than \$770 million in associates in 2023.

Promoting Diversity, Equity & Inclusion

Diversity and inclusion have been among Kroger's values for decades. We strive to reflect the communities we serve and foster a culture that empowers everyone to be their true self, inspires collaboration, and feeds the human spirit. We have taken a very thoughtful and purposeful approach to enact meaningful change and develop what we believe are the right actions to achieve true and lasting equality. Our *Framework for Action: Diversity, Equity & Inclusion* plan reflects our desire to redefine, deepen, and advance our commitment, mobilizing our people, passion, scale and resources. The following summarizes our framework: Create a More Inclusive Culture; Develop Diverse Talent; Advance Diverse Partnerships; Advance Equitable Communities; and Deeply Listen and Report Progress.

Creating a Safe Environment

Our associates' safety is a top priority and it is one of our core values. We prioritize providing the right safety training and equipment, safe working conditions and resources to maintain and improve associates' well-being. Through our strategy to set clear expectations, routine monitoring, and regular communication and engagement, we reduce the number of injuries and accidents that happen in our workplace. We track health and safety metrics centrally for an enterprise-wide view of issues, trends and opportunities and monitor associate injury performance including total injuries, Occupational Safety and Health Administration ("OSHA") injury rates, and lost-time injuries, as well as customer injury metrics like slip-and-fall injuries. We also track the completion of required training for associates and we regularly share these metrics with leaders and relevant team members to inform management decisions.

Supporting Labor Relations

A majority of our employees are covered by collective bargaining agreements negotiated with local unions affiliated with one of several different international unions. There are approximately 320 such agreements, usually with terms of three to five years. Wages, health care and pensions are included in all of these collective bargaining agreements that cover approximately 65% of our associates. Our objective is to negotiate contracts that balance competitive wage increases and affordable healthcare for associates with keeping groceries affordable for the communities we serve. Our obligation is to do this in a way that maintains a financially sustainable business.

MANAGING CLIMATE IMPACTS

Managing climate change impacts is an important part of *Thriving Together*, Kroger's Environmental, Social & Governance ("ESG") strategy, and has been a focus for our business for many years. With a large portfolio of supermarkets, distribution warehouses and food production plants, as well as a complex supply chain, we recognize Kroger's impact on our climate. We continue to explore opportunities and take steps to reduce the effects of our operations on the environment and to reduce the potential risk of a changing climate on our operations. This includes enhancing our operational efficiency, increasing our usage of renewable energy and investing in new technologies. The key elements of our climate strategy are included below.

Governance

Climate effects are managed by leadership with input from several departments across the business. The Public Responsibilities Committee of the Board of Directors oversees our responsibilities as a corporate citizen and the Company's practices related to environmental sustainability, including climate effects, along with other environmental and social topics of material importance. Kroger discloses detailed energy and emissions data, as well as our approach to managing climate-related topics, in our annual ESG Report, which can be found at www.thekrogerco.com/esgreport.

Risk assessment

To help identify and manage climate-related risks to our business, we conduct both qualitative and quantitative risk assessments. We conducted our first quantitative climate risk assessment to determine the likelihood that different physical climate risks, including drought, extreme heat and extreme precipitation, would affect Kroger's operations at representative facilities in different geographies and, in turn, potentially increase operating costs for these facilities. As a result of our risk assessments, we do not currently anticipate the modeled physical risks to adversely affect our financial condition, results of operations or cash flows for the foreseeable future. We plan to continue these qualitative and quantitative risk assessments moving forward.

Kroger also acknowledges that current and emerging climate-related legislation could affect our business. As a result of forthcoming state and federal requirements regarding the phase down of hydrofluorocarbon ("HFC") refrigerants, we anticipate steadily replacing our refrigerant infrastructure to reach required levels, which could incur significant costs to the business. If legislation required an accelerated timeline regarding the phase down of HFC refrigerants, we could incur higher costs. Any such legislation will affect all retailers using refrigerants in their operations.

Climate adaptation

To help prepare for and manage a variety of risk scenarios, including natural disasters and business disruptions to our supply chain, we maintain more than 200 business continuity plans. We have installed technologies and processes to ensure our supermarkets, food production plants, fulfillment centers and supply chain can respond quickly and remain operational. We also monitor energy availability and costs to help anticipate how changing climate patterns, like increasing temperatures, could affect our energy-sourcing costs and activities. Our teams also monitor transition risks due to climate change, including the effect possible new legislation may have on our business.

Climate mitigation

For many years, Kroger has implemented emission reduction projects, including energy efficiency improvements, refrigerant leak detection and mitigation measures, renewable energy installations and procurement and fleet efficiencies. In 2020, we set a goal to reduce absolute greenhouse gas ("GHG") emissions from our operations (scope 1 and 2 emissions) by 30% by 2030, against a 2018 baseline. The goal was developed using climate science and is aligned with the Paris Agreement, specifically supporting a well-below 2°C climate scenario according to the absolute contraction method. Kroger is in the process of resetting its GHG reduction target to align with the requirements of the Science Based Targets initiative. This includes resetting our current Scope 1 and 2 emissions goal to support the 1.5°C scenario, and setting new Scope 3 emissions goals.

Additional discussion about our approach to managing climate effects is included in our annual ESG Report. The information in our ESG Report is not part of or incorporated by reference into this Annual Report on Form 10-K.

INFORMATION ABOUT OUR EXECUTIVE OFFICERS

The following is a list of the names and ages of the executive officers and the positions held by each such person. Except as otherwise noted, each person has held office for at least five years. Each officer will hold office at the discretion of the Board for the ensuing year until removed or replaced.

Name	Age	Recent Employment History
Mary E. Adcock	47	Ms. Adcock was elected Senior Vice President effective May 1, 2019 and is responsible for retail operations as well as the oversight of all Kroger retail divisions. From June 2016 to April 2019, she served as Group Vice President of Retail Operations. Prior to that, Ms. Adcock held leadership roles in Kroger's Columbus Division, including Vice President of Operations and Vice President of Merchandising. Prior to that, Ms. Adcock served as Vice President of Natural Foods Merchandising and as Vice President of Deli/Bakery Manufacturing and held several leadership positions in the manufacturing department, including human resources manager, general manager and division operations manager. Ms. Adcock joined Kroger in 1999 as human resources assistant manager at the Country Oven Bakery in Bowling Green, Kentucky.
Stuart W. Aitken	51	Mr. Aitken was named Senior Vice President and Chief Merchant and Marketing Officer in August 2020. He was elected Senior Vice President in February 2019 and served as Group Vice President from June 2015 to February 2019. He is responsible for sales, pricing, promotional and category planning for fresh foods, center store and general merchandise categories, as well as analytics & execution, e-commerce and Digital Merchandising, and <i>Our Brands</i> . Prior to joining Kroger, he served as the chief executive officer of dunnhumby USA, LLC. Mr. Aitken has over 15 years of marketing, academic and technical experience across a variety of industries, and held various leadership roles with other companies, including Michaels Stores and Safeway, Inc.
Gabriel Arreaga	48	Mr. Arreaga was elected Senior Vice President of Supply Chain in December 2020. He is responsible for the company's industry-leading Supply Chain organization, Logistics, Inventory & Replenishment, Manufacturing, and Fulfillment Centers. Prior to Kroger, Mr. Arreaga served as Senior Vice President of Supply Chains for Mondelez, where he was responsible for all operations and functions from field to consumer, internal and external factories, fulfillment centers, direct to store branches, Logistics and product development. He was also Global Vice President of Operations for Stanley Black and Decker and held numerous leadership roles at Unilever including Vice President of Food and Beverage Operations.
Yael Cosset	49	Mr. Cosset was elected Senior Vice President and Chief Information Officer in May 2019 and is responsible for leading Kroger's digital strategy, focused on building Kroger's presence in the marketplace in digital channels, personalization and e-commerce. In August 2020, he also assumed responsibility for Kroger's alternative profit businesses, including Kroger's data analytics subsidiary, 84.51° LLC and Kroger Personal Finance. Prior to that, Mr. Cosset served as Group Vice President and Chief Digital Officer, and also as Chief Commercial Officer and Chief Information Officer of 84.51° LLC. Prior to joining Kroger, Mr. Cosset served in several leadership roles at dunnhumby USA, LLC, including Executive Vice President of Consumer Markets and Global Chief Information Officer.

Carin L. Fike	54	Ms. Fike was elected Vice President and Treasurer effective April 2017. Prior to that, she served as Assistant Treasurer and also as Director of Investor Relations. Ms. Fike began her career with Kroger in 1999 as a manager in the Financial Reporting department after working with PricewaterhouseCoopers in various roles, including audit manager.
Todd A. Foley	53	Mr. Foley was named Group Vice President, Corporate Controller on October 1, 2021. From April 2017 to September 2021, he served as Vice President and Corporate Controller. Before that, he held several leadership roles, including Vice President and Treasurer, Assistant Corporate Controller, and Controller of Kroger's Cincinnati/Dayton division. Mr. Foley began his career with Kroger in 2001 as an audit manager in the Internal Audit Department after working for PricewaterhouseCoopers in various roles, including senior audit manager.
Valerie L. Jabbar	54	Ms. Jabbar was elected Senior Vice President effective August 19, 2021 and is responsible for the oversight of several Kroger retail divisions. From July 2020 to August 2021, she served as Group Vice President of Center Store Merchandising, and from September 2018 to June 2020, as Group Vice President of Merchandising. Prior to that, she served as President of the Ralphs Division from July 2016 to August 2018. Before that, Ms. Jabbar served as Vice President of Merchandising for the Ralphs Division and as Vice President of Merchandising for the Mid-Atlantic Division. She also held several leadership roles, including assistant store director, category manager, Drug/GM coordinator, G.O. Seasonal manager, assistant director of Drug/GM and director of Drug GM, and district manager in the Fry's Division. She joined the Company in 1987 as a clerk in the Fry's Division.
Kenneth C. Kimball	57	Mr. Kimball was elected Senior Vice President in March 2022 and is responsible for the oversight of several Kroger retail divisions. From April 2016 to March 2022, he served as President of the Smith's Division. Prior to that, he held several leadership roles with the Ralphs Division, including Vice President of Operations and Vice President of Merchandising. Prior to that, he held leadership roles, including store manager, district manager, and director in the Smith's Division as well as Senior Vice President of Sales and Merchandising and Group Vice President of Retail Operations. Mr. Kimball joined the Company in 1984 as a clerk in the Smith's Division.
Timothy A. Massa	56	Mr. Massa was elected Senior Vice President of Human Resources and Labor Relations in June 2018. Prior to that, he served as Group Vice President of Human Resources and Labor Relations from June 2014 to June 2018. Mr. Massa joined Kroger in October 2010 as Vice President, Corporate Human Resources and Talent Development. Prior to joining Kroger, he served in various Human Resources leadership roles for 21 years at Procter & Gamble, most recently serving as Global Human Resources Director of Customer Business Development.

W. Rodney McMullen	62	Mr. McMullen was elected Chairman of the Board effective January 1, 2015, and Chief Executive Officer effective January 1, 2014. Prior to that, he served as President and Chief Operating Officer from August 2009 to December 2013. Prior to that he held numerous leadership roles, including Vice Chairman, Executive Vice President of Strategy, Planning and Finance, Executive Vice President and Chief Financial Officer, Senior Vice President, Group Vice President and Chief Financial Officer, Vice President, Control and Financial Services, and Vice President, Planning and Capital Management. Mr. McMullen joined Kroger in 1978 as a part-time stock clerk.
Gary Millerchip	51	Mr. Millerchip was elected Senior Vice President and Chief Financial Officer effective April 2019. From July 2010 to April 2019, he served as Chief Executive Officer of Kroger Personal Finance. Before coming to Kroger, Mr. Millerchip was responsible for the Royal Bank of Scotland (RBS) Personal Credit Card business in the United Kingdom. He joined RBS in 1987 and held leadership positions in Sales & Marketing, Finance, Change Management, Retail Banking Distribution Strategy and Branch Operations during his time there.
Christine S. Wheatley	52	Ms. Wheatley was elected Group Vice President, Secretary and General Counsel in May 2014. She joined Kroger in February 2008 as Corporate Counsel, and thereafter served as Senior Attorney, Senior Counsel, and Vice President. Before joining Kroger, Ms. Wheatley was engaged in the private practice of law for 11 years, most recently as a partner at Porter Wright Morris & Arthur in Cincinnati.

COMPETITIVE ENVIRONMENT

For the disclosure related to our competitive environment, see Item 1A under the heading “Competitive Environment.”

ITEM 1A. RISK FACTORS.

There are risks and uncertainties that can affect our business. The significant risk factors are discussed below. The following information should be read together with “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” which includes forward-looking statements and factors that could cause us not to realize our goals or meet our expectations.

OUR PROPOSED TRANSACTION WITH ALBERTSONS CREATES INCREMENTAL BUSINESS, REGULATORY AND REPUTATIONAL RISKS

On October 13, 2022, we entered into a merger agreement with Albertsons Companies Inc. (“Albertsons”), which sets forth the terms of our proposed transaction. The proposed transaction with Albertsons entails important risks, including, among others: the expected timing and likelihood of completion of the proposed transaction, including the timing, receipt and terms and conditions of any required governmental and regulatory clearance of the proposed transaction; the effect and terms and conditions of any potential divestitures, including those that may be imposed by regulators as a condition to the approval of the proposed transaction, and/or the separation of SpinCo (as described in the merger agreement); the occurrence of any event, change or other circumstances that could give rise to the termination of the merger agreement; the outcome of any legal proceedings that have been instituted and may in the future be instituted against the parties and others following announcement of the merger agreement and proposed transaction; the inability to consummate the proposed transaction due to the failure to satisfy other conditions to complete the proposed transaction; risks that the proposed transaction disrupts our current plans and operations; the ability to identify and recognize, including on the expected timeline, the anticipated total shareholder return (“TSR”), revenue and EBITDA expectations; the amount of the costs, fees, expenses and charges related to the proposed transaction; the risk that transaction and/or integration costs are greater than expected, including as a result of conditions regulators put on any approvals of the transaction; the potential effect of the announcement and/or consummation of the proposed transaction on relationships, including with associates, suppliers and competitors; our ability to maintain an investment grade credit rating; the risk that management’s attention is diverted from other matters; risks related to the potential effect of general economic, political and market factors, including changes in the financial markets as a result of inflation or measures implemented to address inflation, and any epidemic, pandemic or disease outbreaks, on Kroger, Albertsons or the proposed transaction; the risk of adverse effects on the market price of our or Albertsons’s securities or on Albertsons’s or the Company’s operating results for any reason; the occurrence of any event, change or other circumstances that could give rise to the termination of the merger agreement; and other risks described in our filings with the SEC.

INTEGRATION OF NEW BUSINESS AND STRATEGIC ALLIANCES

In addition to the above, we enter into mergers, acquisitions and strategic alliances with expected benefits including, among other things, operating efficiencies, procurement savings, innovation and sharing of best practices, that may allow for future growth. Achieving the anticipated or desired benefits may be subject to a number of significant challenges and uncertainties, including, without limitation, whether unique corporate cultures will work collaboratively in an efficient and effective manner, the coordination of geographically separate organizations, the possibility of imprecise assumptions underlying expectations regarding potential synergies, capital requirements, and the integration process, unforeseen expenses and delays, and competitive factors in the marketplace. We could also encounter unforeseen transaction and integration-related costs or other circumstances such as unforeseen liabilities or other issues. Many of these potential circumstances are outside of our control and any of them could result in increased costs, decreased revenue, decreased synergies and the diversion of management time and attention. If we are unable to achieve our objectives within the anticipated time frame, or at all, the expected benefits may not be realized fully or at all, or may take longer to realize than expected, which could have an adverse effect on our business, financial condition, results of operations or cash flows.

COMPETITIVE ENVIRONMENT

The operating environment for the food retailing industry continues to be characterized by the fragmentation of local, regional, and national retailers, including both retail and digital formats, intense competition and entry of non-traditional competitors. Customer behavior shifted quickly and considerably during the pandemic, including a shift from food away from home to food at home. We see three major trends shaping the industry: e-commerce, cooking at home and prepared foods to go. If we do not appropriately or accurately anticipate customer preferences or fail to quickly adapt to these changing preferences, or if trends shift more quickly to food away from home, our sales and profitability could be adversely affected. If we fail to meet the evolving needs of our customers, our ability to compete and our financial condition, results of operations or cash flows could be adversely affected.

We are continuing to enhance the customer connection with investments in our four strategic pillars – Seamless, Personalization, Fresh, and *Our Brands*. Each of these are strategies designed to better serve our customers and to generate customer loyalty and sustainable growth momentum. We believe our plans to continue to improve these four strategic pillars will enable us to meet the wide-ranging needs and expectations of our customers. If we are unable to continue to enhance the foregoing key elements of our connection with customers, or they fail to strengthen customer loyalty, our ability to compete and our financial condition, results of operations or cash flows could be adversely affected. Our ecosystem monetizes the traffic and data insights generated by our retail supermarket business to create fast-growing, asset-light and margin rich revenue streams. We may be unsuccessful in implementing our alternative profit strategy, which could adversely affect our business growth and our financial condition, results of operations or cash flows. The nature and extent to which our competitors respond to the evolving and competitive industry by developing and implementing their competitive strategies could adversely affect our profitability.

In addition, evolving customer preferences and the advancement of online, delivery, ship to home, and mobile channels in our industry increase the competitive environment. We must anticipate and meet these evolving customer preferences and continue to implement technology, software and processes to be able to conveniently and cost-effectively fulfill customer orders. Providing flexible fulfillment options and implementing new technology is complex and may not meet customer preferences. If we are not successful in reducing or offsetting the cost of fulfilling orders outside of our traditional in-store channel with efficiencies, cost-savings, expense reductions, or alternative revenues, our financial condition, results of operations or cash flows could be adversely affected.

In addition, if we do not successfully develop and maintain a relevant digital experience for our customers, our business, financial condition, results of operations or cash flows could be adversely affected. Digital retailing is rapidly evolving, and we must keep pace with new developments by our competitors as well as the evolving needs and preferences of our customers. Our digital business accelerated significantly during the COVID-19 pandemic. We must compete by offering a convenient shopping experience for our customers regardless of how they choose to shop with us, and by investing in, providing and maintaining relevant customer-facing apps and interfaces that have the features customers want that are also reliable and easy to use. The future success of the digital business will also depend on the efficiency and cost effectiveness of fulfilling orders across our modalities, whether in store, in pickup-only locations, or through customer fulfillment centers powered by Ocado.

PRODUCT SAFETY

Customers count on Kroger to provide them with safe food and drugs and other merchandise. Concerns regarding the safety of the products that we sell could cause shoppers to avoid purchasing certain products from us, or to seek alternative sources of supply even if the basis for the concern is outside of our control. Any lost confidence on the part of our customers would be difficult and costly to reestablish. We could be adversely affected by personal injury or product liability claims, product recalls, or other health and safety issues, which occur from time to time. If we sell products that cause illness or injury to customers, resulting from product contamination or spoilage, the presence of certain substances, or damage caused in handling, storage or transportation, we could be exposed to claims or litigation. Any issue regarding the safety of items, whether *Our Brands* items manufactured by the Company or for the Company or CPG products we sell, regardless of the cause, could have a substantial and adverse effect on our reputation, financial condition, results of operations or cash flows.

EMPLOYEE MATTERS

A majority of our associates are covered by collective bargaining agreements with unions, and our relationship with those unions, including a prolonged work stoppage affecting a substantial number of locations, could have a material adverse effect on our financial condition, results of operations or cash flows. We are a party to approximately 310 collective bargaining agreements. Upon the expiration of our collective bargaining agreements, work stoppages by the affected workers could occur (and have occurred in the past) if we are unable to negotiate new contracts with labor unions. In addition, changes to national labor policy could affect labor relations with our associates and relationships with unions. Further, if we are unable to control health care, pension and wage costs, or if we have insufficient operational flexibility under our collective bargaining agreements, we may experience increased operating costs and an adverse effect on our financial condition, results of operations or cash flows.

We have committed to paying fair wages and providing the benefits that were collectively bargained with the United Food and Commercial Workers (“UFCW”) and other labor unions representing associates. Our ability to control labor and benefit costs is subject to numerous internal and external factors, including regulatory changes, wage rates, and healthcare and other insurance costs. Changes to wage regulations, including further increases in the minimum wage and extra pay ordinances enacted by local governments, could have an impact on our future financial condition, results of operations or cash flows. Our ability to meet our labor needs, while controlling wages and other costs, is subject to numerous external factors, including the available qualified workforce in each area where we are located, unemployment levels within those areas, wage rates, and changes in employment and labor laws.

Our continued success depends on the ongoing contributions of our associates, including members of our senior management and other key personnel. We must recruit, hire, develop and retain qualified associates with an increasingly large range of skills to meet the needs of our evolving and complex business. We compete with other retail and non-retail businesses for these associates and invest significant resources in training and motivating them. Competition among potential employers has resulted, and may in the future result, in increased associate costs and has from time to time affected our ability to recruit and retain associates. There is no assurance that we will be able to attract or retain sufficient highly qualified associates in the future, which could have a material adverse effect on our business, financial condition, results of operations or cash flows.

DATA AND TECHNOLOGY

Our business is increasingly dependent on information technology systems that are complex and vital to continuing operations, resulting in an expansion of our technological presence and corresponding risk exposure. If we were to experience difficulties maintaining or operating existing systems or implementing new systems, we could incur significant losses due to disruptions in our operations. As we modernize legacy systems, if we are unable to successfully implement those systems in a coordinated manner across internal and external stakeholders, we could be subject to business interruption or reputation risk with our customers, suppliers or associates.

Through our sales and marketing activities, we collect and store some personal information that our customers provide to us. We also gather and retain information about our associates in the normal course of business. Under certain circumstances, we may share information with vendors that assist us in conducting our business, as required by law, or otherwise in accordance with our privacy policy.

Our technology systems have been, and may be in the future, disrupted from circumstances beyond our control, as we regularly defend against and respond to data security incidents. Cyber-attackers have targeted and accessed, and may in the future again target and, if successful, access, information stored in our or our vendors' systems in order to misappropriate confidential customer or business information. Due to the ongoing war between Russia and Ukraine, there is an increased possibility of cyberattacks that could either directly or indirectly affect our operations. Although we have implemented procedures to protect our information, and require our vendors to do the same, we cannot be certain that our security systems will successfully defend against, or be able to effectively respond to, rapidly evolving, increasingly sophisticated cyber-attacks as they become more difficult to detect and defend against. Further, a Kroger associate, a contractor or other third party with whom we do business may in the future circumvent our security measures in order to obtain information or may inadvertently cause a breach involving information. In addition, hardware, software or applications we may use may have inherent defects, vulnerabilities, or could be inadvertently or intentionally applied or used in a way that could compromise our information security.

Our cybersecurity program, continued investment in our information technology systems, and our processes to evaluate and select vendors with reasonable information security controls may not effectively insulate us from potential attacks, data breaches or disruptions to our business operations, which could result in a loss of customers or business information, negative publicity, damage to our reputation, and exposure to claims from customers, financial institutions, regulatory authorities, payment card associations, associates and other persons. Any such events could have an adverse effect on our business, financial condition, results of operations or cash flows and may not be covered by our insurance. In addition, compliance with privacy and information security laws and standards may result in significant expense due to increased investment in technology and the development of new operational processes and may require us to devote significant management resources to address these issues. The costs of attempting to protect against the foregoing risks and the costs of responding to cyber-attacks are significant. Following a cyber-attack, our and/or our vendors' remediation efforts may not be successful, and a cyber-attack could result in interruptions, delays or cessation of service, and loss of existing or potential customers. In addition, breaches of our and/or our vendors' security measures and the unauthorized dissemination of sensitive personal information or confidential information about us or our customers could expose our customers' private information and our customers to the risk of financial or medical identity theft, or expose us or other third parties to a risk of loss or misuse of this information, and result in investigations, regulatory enforcement actions, material fines and penalties, loss of customers and business relationships, litigation or other actions which could have a material adverse effect on our brands, reputation, business, financial condition, results of operations or cash flows.

Data governance failures can adversely affect our reputation and business. Our business depends on our customers' willingness to entrust us with their personal information. Events that adversely affect that trust, including inadequate disclosure to our customers of our uses of their information, failures to honor new and evolving data privacy rights, failing to keep our information technology systems and our customers' sensitive information secure from significant attack, theft, damage, loss or unauthorized disclosure or access, whether as a result of our action or inaction (including human error) or that of our business associates, vendors or other third parties, could adversely affect our brand and reputation and operating results and also could expose and/or has exposed us to mandatory disclosure to the media, litigation (including class action litigation), governmental investigations and enforcement proceedings, material fines, penalties and/or remediation costs, and compensatory, special, punitive and statutory damages, consent orders, and/or injunctive relief, any of which could adversely affect our businesses, financial condition, results of operations or cash flows. Large scale data breaches at other entities, including supply chain security vulnerabilities, increase the challenge we and our vendors face in maintaining the security of our information technology systems and proprietary information and of our customers' information. There can be no assurance that such failures will not occur, or if any do occur, that we will detect them or that they can be sufficiently remediated.

The use of data by our business and our business associates is highly regulated. Privacy and information-security laws and regulations change, and compliance with them may result in cost increases due to, among other things, systems changes and the development of new processes. If we, our third party service providers, or those with whom we share information fail to comply with laws and regulations, or self-regulatory regimes, that apply to all or parts of our business, such as section 5 of the FTC Act, the California Consumer Privacy Act (CCPA), the Health Insurance Portability and Accountability Act (HIPAA), or applicable international laws such as the EU General Data Protection Regulation (GDPR), our reputation could be damaged, possibly resulting in lost business, and we could be subjected to additional legal risk or financial losses as a result of non-compliance.

PAYMENT SYSTEMS

We accept payments using a variety of methods, including cash and checks, select credit and debit cards, and Kroger Pay, a mobile payment solution. As we offer new payment options to our customers, we may be subject to additional rules, regulations, compliance requirements, and higher fraud losses. For certain payment methods, we pay interchange and other related acceptance fees, along with additional transaction processing fees. We rely on third parties to provide payment transaction processing services for credit and debit cards. It could disrupt our business if these companies become unwilling or unable to provide these services to us, including due to short term disruption of service. We are also subject to evolving payment card association and network operating rules, including data security rules, certification requirements and rules governing electronic funds transfers. For example, we are subject to Payment Card Industry Data Security Standards (“PCI DSS”), which contain compliance guidelines and standards with regard to our security surrounding the physical and electronic storage, processing and transmission of individual cardholder data. If our payment card terminals or internal systems are breached or compromised, we may be liable for card re-issuance costs and other costs, subject to fines and higher transaction fees, and lose our ability to accept card payments from our members, or if our third-party service providers’ systems are breached or compromised, our business, financial condition, results of operations or cash flows could be adversely affected.

INDEBTEDNESS

Our indebtedness could reduce our ability to obtain additional financing for working capital, mergers and acquisitions or other purposes and could make us vulnerable to future economic downturns as well as competitive pressures. If debt markets do not permit us to refinance certain maturing debt, we may be required to dedicate a substantial portion of our cash flow from operations to payments on our indebtedness. Changes in our credit ratings, or in the interest rate environment, could have an adverse effect on our financing costs and structure.

LEGAL PROCEEDINGS AND INSURANCE

From time to time, we are a party to legal proceedings, including matters involving personnel and employment issues, personal injury, contract disputes, regulatory claims and other proceedings. Other legal proceedings purport to be brought as class actions on behalf of similarly situated parties. Some of these proceedings could result in a substantial loss to Kroger. We estimate our exposure to these legal proceedings and establish accruals for the estimated liabilities, where it is reasonably possible to estimate and where an adverse outcome is probable. Assessing and predicting the outcome of these matters involves substantial uncertainties. Adverse outcomes in these legal proceedings, or changes in our evaluations or predictions about the proceedings, could have an adverse effect on our financial condition, results of operations or cash flows. Please also refer to the “Litigation” section in Note 12 to the Consolidated Financial Statements.

We use a combination of insurance and self-insurance to provide for potential liability for workers’ compensation, automobile and general liability, property, director and officers’ liability, cyber risk exposure and associate health care benefits. Any actuarial projection of losses is subject to a high degree of variability. With respect to insured matters, we are liable for retention amounts that vary by the nature of the claim, and some losses may not be covered by insurance. Changes in legal claims, trends and interpretations, variability in inflation rates, changes in the nature and method of claims settlement, benefit level changes due to changes in applicable laws, insolvency of insurance carriers, and changes in discount rates could all affect our financial condition, results of operations or cash flows.

MULTI-EMPLOYER PENSION OBLIGATIONS

As discussed in more detail below in “Management’s Discussion and Analysis of Financial Condition and Results of Operations-Critical Accounting Policies-Multi-Employer Pension Plans,” Kroger contributes to several multi-employer pension plans based on obligations arising under collective bargaining agreements with unions representing associates covered by those agreements. We believe the present value of actuarially accrued liabilities in most of these multi-employer plans exceeds the value of the assets held in trust to pay benefits, and we expect that Kroger’s contributions to most of these funds will increase over the next few years. A significant increase to those funding requirements could adversely affect our financial condition, results of operations or cash flows. Despite the fact that the pension obligations of these funds are not the liability or responsibility of the Company, except as noted below, there is a risk that the agencies that rate our outstanding debt instruments could view the underfunded nature of these plans unfavorably, or adjust their current views unfavorably, when determining their ratings on our debt securities. Any downgrading of our debt ratings likely would adversely affect our cost of borrowing and access to capital.

We also currently bear the investment risk of two multi-employer pension plans in which we participate. In addition, we have been designated as the named fiduciary of these funds with sole investment authority of the assets of these funds. If investment results fail to meet our expectations, we could be required to make additional contributions to fund a portion of or the entire shortfall, which could have an adverse effect on our business, financial condition, results of operations or cash flows.

FUEL

We sell a significant amount of fuel in our 1,637 fuel centers, which could face increased regulation, including due to climate change or other environmental concerns, and demand could be affected by concerns about the effect of emissions on the environment as well as retail price increases. We are unable to predict future regulations, environmental effects, political unrest, acts of war or terrorism, disruptions to the economy, including but not limited to the COVID-19 pandemic, the war between Russia and Ukraine, and other matters that affect the cost and availability of fuel, and how our customers will react to such factors, which could adversely affect our financial condition, results of operations or cash flows.

ECONOMIC CONDITIONS

Our operating results could be materially affected by changes in overall economic conditions and other economic factors that impact consumer confidence and spending, including discretionary spending. Future economic conditions affecting disposable consumer income such as employment levels, business conditions, overall economic slowdown or recession, changes in housing market conditions, changes in government benefits such as SNAP/EBT or child care credits, the availability of credit, interest rates, inflation or deflation, tax rates and other matters could reduce consumer spending. Inflation could materially affect our operating results through increases to our cost of goods, supply chain costs and labor costs. In addition, the economic factors listed above, or any other economic factors or circumstances resulting in higher transportation, labor, insurance or healthcare costs or commodity prices, and other economic factors can increase our merchandise costs and operating, general and administrative expenses and otherwise adversely affect our financial condition, results of operations or cash flows. Increased fuel prices also have an effect on consumer spending and on our costs of producing and procuring products that we sell. A deterioration in overall economic conditions, including the uncertainty caused by inflation rate volatility, could adversely affect our business in many ways, including slowing sales growth, reducing overall sales and reducing gross margins. We regularly maintain cash balances at third-party financial institutions in excess of the Federal Deposit Insurance Corporation (“FDIC”) insurance limit and are therefore reliant on banks and other financial institutions to safeguard and allow ready access to these assets. If banks or financial institutions enter receivership or become insolvent in the future in response to financial conditions affecting the banking system and financial markets, our ability to access our existing cash, cash equivalents and investments may be threatened. We are unable to predict how the global economy and financial markets will perform. If the global economy and financial markets do not perform as we expect, it could adversely affect our business, financial condition, results of operations or cash flows.

COVID-19

COVID-19 has impacted and may continue to impact our business, including our supply chain, store operations and merchandising functions, as well as our associates. While our operations have generally stabilized since the peak of the pandemic, we cannot predict with certainty the extent that our operations may continue to be impacted by any continuing effects of COVID-19 on us or on our customers, suppliers, vendors, and other business partners, and each of their financial conditions; however, any adverse effect on these parties could materially and adversely impact us. To the extent that COVID-19 continues to affect the U.S. and global economy and our business, it may also heighten other risks described in this section, including but not limited to those related to consumer behavior and expectations, competition, implementation of strategic initiatives, cybersecurity threats, payment-related risks, supply chain disruptions, labor availability and cost, litigation and operational risk as a result of regulatory requirements.

LEGAL AND GOVERNMENT REGULATION

We are subject to various laws, regulations, and administrative practices that affect our business, including laws and regulations involving antitrust and competition, privacy, data protection, environmental, healthcare, anti-bribery, anti-corruption, tax, accounting, and financial reporting or other matters. These and other rapidly changing laws, regulations, policies and related interpretations, as well as increased enforcement actions by various governmental and regulatory agencies, create challenges for the Company, may alter the environment in which we do business and may increase the ongoing costs of compliance, which could adversely affect our financial condition, results of operations and cash flows. If we are unable to continue to meet these challenges and comply with all laws, regulations, policies and related interpretations, it could negatively affect our reputation and our business results. Additionally, we are currently, and in the future may be, subject to a number of inquiries, investigations, claims, proceeding, and requests for information from governmental agencies or private parties, the adverse outcomes of which could harm our business. Failure to successfully manage these new or pending regulatory and legal matters and resolve such matters without significant liability or damage to our reputation may adversely affect our financial condition, results of operations and cash flows. Furthermore, if new or pending legal or regulatory matters result in fines or costs in excess of the amounts accrued to date, that may also materially affect our financial condition, results of operations or cash flows.

In addition, increasing governmental and societal attention to environmental, social, and governance (ESG) matters, including expanding voluntary reporting, diligence, and disclosure on topics such as climate change, waste production, water usage, human capital, labor, and risk oversight, could expand the nature, scope, and complexity of matters that we are required to control, assess, and report and could negatively affect the Company's reputation.

Additionally, we must comply with numerous provisions regulating, among other things, health and sanitation standards, food labeling and safety, equal employment opportunity, minimum wages and licensing for the sale of food, drugs, and alcoholic beverages. We cannot predict future laws, regulations, interpretations, administrative orders, or applications, or the effect they will have on our operations. They could, however, significantly increase the cost of doing business. They also could require the reformulation of some of the products that we sell (or manufacture for sale to third parties) to meet new standards. We also could be required to recall or discontinue the sale of products that cannot be reformulated. These changes could result in additional record keeping, expanded documentation of the properties of certain products, expanded or different labeling, or scientific substantiation. Any or all of these requirements could have an adverse effect on our financial condition, results of operations or cash flows.

WEATHER, NATURAL DISASTERS AND OTHER EVENTS

A large number of our stores, distribution facilities and fulfillment centers are geographically located in areas that are susceptible to hurricanes, tornadoes, floods, droughts, ice and snow storms and earthquakes. Weather conditions and natural disasters have, and may again in the future, disrupt our operations at one or more of our facilities, interrupt the delivery of products to our stores, substantially increase the cost of products, including supplies and materials and substantially increase the cost of energy needed to operate our facilities or deliver products to our facilities. Moreover, the effects of climate change, including those associated with extreme weather events, may affect our ability to procure needed commodities at costs and in quantities that are optimal for us or at all. Adverse weather, natural disasters, geopolitical and catastrophic events, such as war, civil unrest, acts of terrorism or other acts of violence, including active shooter situations (which have occurred in the past at our locations), or pandemics, such as the spread of COVID-19, or other future pandemics and other matters that could reduce consumer spending, could materially affect our financial condition, results of operations or cash flows.

CLIMATE IMPACT

The long-term effects of global climate change present both physical risks, such as extreme weather conditions or rising sea levels, and transition risks, such as regulatory or technology changes, which are expected to be widespread and unpredictable. These changes could over time affect, for example, the availability and cost of products, commodities and energy including utilities, which in turn may impact our ability to procure goods or services required for the operation of our business at the quantities and levels we require. In addition, many of our operations and facilities are in locations that may be affected by the physical risks of climate change, and we face the risk of losses incurred as a result of physical damage to stores, distribution or fulfillment centers, loss or spoilage of inventory and business interruption caused by such events. We also use natural gas, diesel fuel, gasoline and electricity in our operations, all of which could face increased regulation and cost increases as a result of climate change or other environmental concerns. Transitioning to alternative energy sources, such as renewable electricity or electric vehicles, and investments in new technologies, could incur higher costs. Regulations limiting greenhouse gas emissions and energy inputs will also increase in coming years, which may increase our costs associated with compliance, tracking, reporting, and sourcing. These events and their impacts could otherwise disrupt and adversely affect our operations and could have an adverse effect on our financial condition, results of operations or cash flows.

SUPPLY CHAIN

Disruption in our global supply chain could negatively affect our business. The products we sell are sourced from a wide variety of domestic and international vendors, and any future disruption in our supply chain or inability to find qualified vendors and access products that meet requisite quality and safety standards in a timely and efficient manner could adversely affect our business. The loss or disruption of such supply arrangements for any reason, labor disputes, loss or impairment of key manufacturing sites, acts of war or terrorism, disruptive global political events, such as the ongoing war between Russia and Ukraine, quality control issues, a supplier's financial distress, natural disasters or health crises, including the COVID-19 pandemic, regulatory actions or ethical sourcing issues, trade sanctions or other external factors over which we have no control, could interrupt product supply and, if not effectively managed and remedied, have an adverse effect on our business, financial condition, results of operations or cash flows.

ITEM 1B. UNRESOLVED STAFF COMMENTS.

None.

ITEM 2. PROPERTIES.

As of January 28, 2023, we operated approximately 2,800 owned or leased supermarkets, distribution warehouses and food production plants through divisions, subsidiaries or affiliates. These facilities are located throughout the United States. We generally own store equipment, fixtures and leasehold improvements, as well as processing and food production equipment. The total cost of our owned assets and finance leases at January 28, 2023, was \$53.4 billion while the accumulated depreciation was \$28.6 billion.

We lease certain store real estate, warehouses, distribution centers, office space and equipment. We operate in leased facilities in approximately half of our store locations. Lease terms generally range from 10 to 20 years with options to renew for varying terms at our sole discretion. Certain leases also include options to purchase the leased property. Leases with an initial term of 12 months or less are not recorded on the balance sheet. Certain leases include escalation clauses or payment of executory costs such as property taxes, utilities or insurance and maintenance. Rent expense for leases with escalation clauses or other lease concessions are accounted for on a straight-line basis over the lease term. Our lease agreements do not contain any material residual value guarantees or material restrictive covenants. Certain properties or portions thereof are subleased to others for periods generally ranging from one to 20 years. For additional information on lease obligations, see Note 9 to the Consolidated Financial Statements.

ITEM 3. LEGAL PROCEEDINGS.

Incorporated by reference herein is information regarding certain legal proceedings in which we are involved as set forth under “Litigation” contained in Note 12 – “Commitments and Contingencies” in the notes to the Consolidated Financial Statements in Item 8 of Part II of this Annual Report.

ITEM 4. MINE SAFETY DISCLOSURES.

Not applicable.

PART II**ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES.**

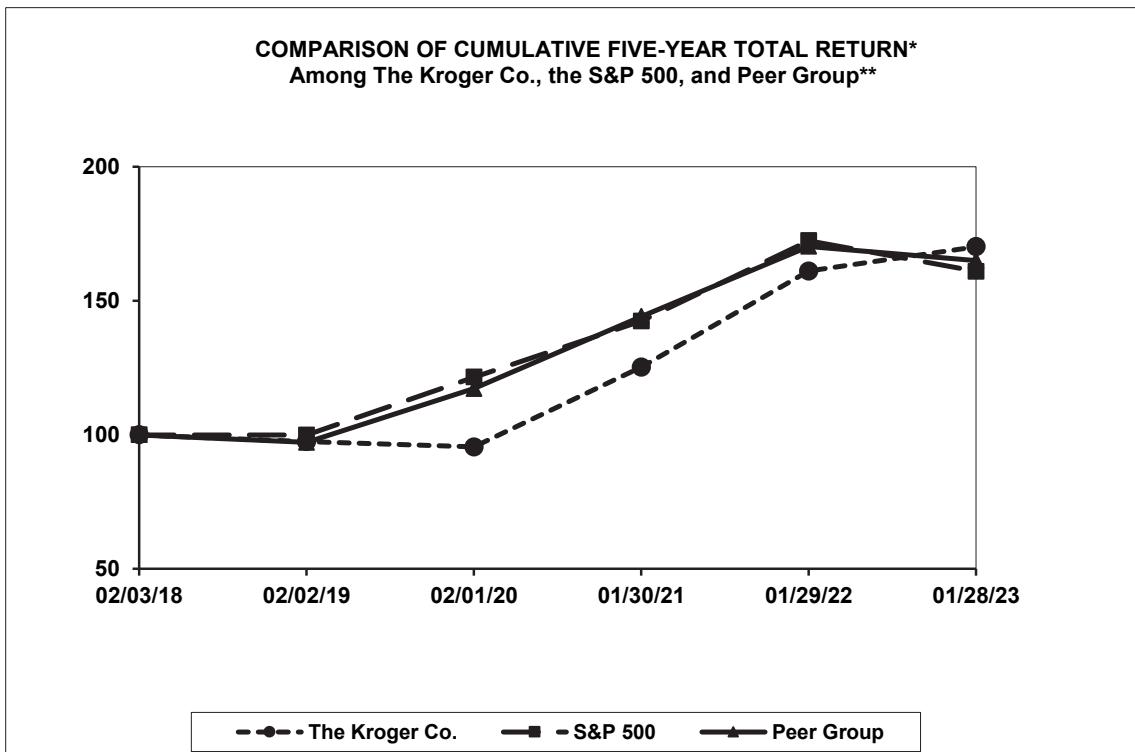
Our common stock is listed on the New York Stock Exchange under the symbol “KR.” As of March 22, 2023, there were 25,062 shareholders of record.

During 2022, we paid two quarterly cash dividends of \$0.21 per share and two quarterly cash dividends of \$0.26 per share. During 2021, we paid two quarterly cash dividends of \$0.18 per share and two quarterly cash dividends of \$0.21 per share. On March 1, 2023, we paid a quarterly cash dividend of \$0.26 per share. On March 9, 2023, we announced that our Board of Directors declared a quarterly cash dividend of \$0.26 per share, payable on June 1, 2023, to shareholders of record at the close of business on May 15, 2023. We currently expect to continue to pay comparable cash dividends on a quarterly basis, that will increase over time, depending on our earnings and other factors, including approval by our Board.

For information on securities authorized for issuance under our existing equity compensation plans, see Item 12 under the heading “Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters.”

PERFORMANCE GRAPH

Set forth below is a line graph comparing the five-year cumulative total shareholder return on our common shares, based on the market price of the common shares and assuming reinvestment of dividends, with the cumulative total return of companies in the Standard & Poor's 500 Stock Index and a peer group composed of food and drug companies.



Company Name/Index	Base Period	INDEXED RETURNS					
		2017	2018	2019	2020	2021	2022
The Kroger Co.	100	97.48	95.47	125.25	161.03	170.17	
S&P 500 Index	100	99.94	121.49	142.45	172.36	160.94	
Peer Group	100	97.12	117.20	144.16	170.23	164.97	

Kroger's fiscal year ends on the Saturday closest to January 31.

Data supplied by Standard & Poor's.

The foregoing Performance Graph will not be deemed incorporated by reference into any other filing, absent an express reference thereto.

* Total assumes \$100 invested on February 3, 2018, in The Kroger Co., S&P 500 Index, and the Peer Group, with reinvestment of dividends.

** The Peer Group consists of Albertsons Companies, Inc. (included from June 26, 2020 when it began trading), Costco Wholesale Corporation, CVS Health Corporation, Koninklijke Ahold Delhaize N.V., Supervalu Inc. (included through October 19, 2018 when it was acquired by United Natural Foods), Target Corp., Walgreens Boots Alliance Inc. and Walmart Inc.

The following table presents information on our purchases of our common shares during the fourth quarter of 2022:

ISSUER PURCHASES OF EQUITY SECURITIES

<u>Period⁽¹⁾</u>		<u>Total Number of Shares Purchased⁽²⁾</u>	<u>Average Price Paid Per Share⁽²⁾</u>	<u>Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs⁽³⁾</u>	<u>Approximate Dollar Value of Shares that May Yet Be Purchased Under the Plans or Programs⁽⁴⁾ (in millions)</u>
First four weeks	November 6, 2022 to December 3, 2022	26,566	\$ 47.90	26,566	\$ 1,000
Second four weeks	December 4, 2022 to December 31, 2022	87,928	\$ 45.83	66,804	\$ 1,000
Third four weeks	January 1, 2023 to January 28, 2023	83,500	\$ 45.15	83,500	\$ 1,000
Total		197,994	\$ 45.82	176,870	\$ 1,000

- (1) The reported periods conform to our fiscal calendar composed of thirteen 28-day periods. The fourth quarter of 2022 contained three 28-day periods.
- (2) Includes (i) shares repurchased under a program announced on December 6, 1999 to repurchase common shares to reduce dilution resulting from our employee stock option and long-term incentive plans, under which repurchases are limited to proceeds received from exercises of stock options and the tax benefits associated therewith (“1999 Repurchase Program”) and (ii) 21,124 shares that were surrendered to the Company by participants under our long-term incentive plans to pay for taxes on restricted stock awards.
- (3) Represents shares repurchased under the 1999 Repurchase Program.
- (4) On September 9, 2022, our Board of Directors approved a \$1.0 billion share repurchase program to reacquire shares via open market purchase or privately negotiated transactions, block trades, or pursuant to trades intending to comply with Rule 10b5-1 under the Securities Exchange Act of 1934, as amended (the “September 2022 Repurchase Program”). The amounts shown in this column reflect the amount remaining under the September 2022 Repurchase Program as of the specified period end dates. Amounts available under the 1999 Repurchase Program are dependent upon option exercise activity. The September 2022 Repurchase Program and the 1999 Repurchase Program do not have an expiration date but may be suspended or terminated by our Board of Directors at any time. No shares have been repurchased under the September 2022 authorization. During the third quarter of 2022, we paused our share repurchase program to prioritize de-leveraging following the proposed merger with Albertsons.

ITEM 6. RESERVED.

Not applicable.

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS.

The following discussion and analysis of financial condition and results of operations of The Kroger Co. should be read in conjunction with the “Forward-looking Statements” section set forth in Part I and the “Risk Factors” section set forth in Item 1A of Part I. MD&A is provided as a supplement to, and should be read in conjunction with, our Consolidated Financial Statements and the accompanying notes thereto contained in Item 8 of this report, as well as Part II, Item 7 “Management’s Discussion and Analysis of Financial Condition and Results of Operations” of our Form 10-K for the year ended January 29, 2022, which provides additional information on comparisons of fiscal years 2021 and 2020. Kroger is unable to provide a full reconciliation of forward-looking GAAP and non-GAAP measures used in this Annual Report on Form 10-K without unreasonable effort because it is not possible to predict certain of our adjustment items with a reasonable degree of certainty. This information is dependent upon future events and may be outside of our control and its unavailability could have a significant effect on future financial results.

OUR VALUE CREATION MODEL – DELIVERING CONSISTENT AND ATTRACTIVE TOTAL SHAREHOLDER RETURN

Kroger’s proven value creation model is allowing us to deliver today and invest for the future. The foundation of our value creation model is our omnichannel food retail business, which is built on Kroger’s strategic assets: our stores, digital ecosystem, *Our Brands* and our data. These assets, when combined with our go-to-market strategy, deliver a compelling value proposition for our customers. We continue to build long-term customer loyalty through Fresh, *Our Brands*, Personalization and our seamless shopping experience to drive sustainable sales growth in our retail supermarket business, including fuel and health and wellness. This, in turn, generates the data and traffic that enables our fast growing, high operating margin alternative profit businesses. We are evolving from a traditional food retailer into a more diverse, food first business that we expect will consistently deliver net earnings growth in the future. This will be achieved by:

- Growing identical sales without fuel. Our plan involves maximizing growth opportunities in our supermarket business and is supported by continued strategic investments in our customers, associates, and our seamless ecosystem to ensure we deliver a full, friendly and fresh experience for every customer, every time. As more and more customers incorporate ecommerce into their permanent routines, we expect digital sales to grow at a double-digit rate – a faster pace than other food at home sales – over time; and
- Expanding operating margin, through a balanced model where strategic price investments for our customers, investments in our associates’ wages and benefits and investments in technology to deliver a better associate and customer experience are offset by (i) our cost savings program, which has delivered \$1 billion in cost savings annually for the past five fiscal years, (ii) improving our product mix, as we accelerate momentum with our Fresh and *Our Brands* initiatives, and (iii) growing our alternative profit businesses.

We expect to continue to generate strong free cash flow and are committed to being disciplined with capital deployment in support of our value creation model and stated capital allocation priorities. Our first priority is to invest in the business through attractive high return opportunities that drive long-term sustainable net earnings growth. We are committed to maintaining our current investment grade debt rating and our net total debt to adjusted EBITDA ratio target range of 2.30 to 2.50. We also expect to continue to grow our dividend over time and return excess cash to shareholders via stock repurchases, subject to Board approval. During the third quarter of 2022, we paused our share repurchase program to prioritize de-leveraging following the proposed merger with Albertsons.

We expect our value creation model will result in total shareholder return within our target range of 8% to 11% over time, which does not contemplate the effect of the proposed merger with Albertsons.

2022 EXECUTIVE SUMMARY

We achieved exceptional results in 2022 as we executed on our *Leading with Fresh and Accelerating with Digital* strategy, building on record years in 2020 and 2021. These results were driven by positive identical sales without fuel of 5.6%, disciplined margin management and strong fuel profitability. Our proven go-to-market strategy enables us to successfully navigate many operating environments, which has allowed us to effectively manage product cost inflation through strong sourcing practices while maintaining competitive prices and helping customers manage their budgets.

Our value proposition, which includes providing great quality, fresh products at affordable prices, data-driven promotions, trusted *Our Brands* products and our fuel rewards program, is resonating with shoppers and driving total household growth and enhanced customer loyalty. During the year, we continued to invest in wages and the associate experience and in creating zero hunger, zero waste communities, as we believe these components of our strategy are critical to achieving long term sustainable growth. In 2022, our average hourly rates increased by more than 6% and we have now invested an incremental \$1.9 billion in associate wages since 2018. Our average hourly rate is now more than \$18 and more than \$23, when comprehensive benefits are included.

In 2023, we expect to build on this momentum and deliver revenue and adjusted net earnings per diluted share growth on top of the record results achieved over the past three years. We expect to grow revenue by continuing to invest in our customers through competitive pricing and personalization, fresh products and a better shopping experience. Building on our significant investments over the past four years, we will also continue to increase associate wages. We will fund these investments through product mix improvements, cost saving initiatives and growth in our alternative profit businesses. Looking forward, we believe we are well positioned to successfully operate in an evolving economic environment and continue to deliver attractive and sustainable total shareholder return within our target range of 8% to 11% over time, which does not contemplate the effect of the proposed merger with Albertsons.

The following table provides highlights of our financial performance:

Financial Performance Data
(\$ in millions, except per share amounts)

	Fiscal Year		
	2022	Percentage Change	2021
Sales	\$ 148,258	7.5 %	\$ 137,888
Sales without fuel	\$ 129,626	5.2 %	\$ 123,210
Net earnings attributable to The Kroger Co.	\$ 2,244	35.6 %	\$ 1,655
Adjusted net earnings attributable to The Kroger Co.	\$ 3,104	10.8 %	\$ 2,802
Net earnings attributable to The Kroger Co. per diluted common share	\$ 3.06	41.0 %	\$ 2.17
Adjusted net earnings attributable to The Kroger Co. per diluted common share	\$ 4.23	14.9 %	\$ 3.68
Operating profit	\$ 4,126	18.7 %	\$ 3,477
Adjusted FIFO operating profit	\$ 5,079	17.8 %	\$ 4,310
Dividends paid	\$ 682	15.8 %	\$ 589
Dividends paid per common share	\$ 0.94	20.5 %	\$ 0.78
Identical sales excluding fuel	5.6 %	N/A	0.2 %
FIFO gross margin rate, excluding fuel, bps decrease	(0.09)	N/A	(0.43)
OG&A rate, excluding fuel and Adjusted Items, bps decrease	0.19	N/A	0.61
Increase (decrease) in total debt, including obligations under finance leases compared to prior fiscal year end	\$ 14	N/A	\$ (49)
Share repurchases	\$ 993	N/A	\$ 1,647

OVERVIEW

Notable items for 2022 are:

Shareholder Return

- Achieved net earnings attributable to The Kroger Co. per diluted common share of \$3.06, which represents a 41% increase compared to 2021.
- Achieved adjusted net earnings attributable to The Kroger Co. per diluted common share of \$4.23, which represents a 15% increase compared to 2021.
- Achieved operating profit of \$4.1 billion, which represents a 19% increase compared to 2021.
- Achieved adjusted FIFO operating profit of \$5.1 billion, which represents an 18% increase compared to 2021.
- Generated cash flows from operations of \$4.5 billion.
- Returned \$1.7 billion to shareholders through share repurchases and dividend payments. During the third quarter of 2022, we paused our share repurchase program to prioritize deleveraging following the proposed merger with Albertsons.

Other Financial Results

- Identical sales, excluding fuel, increased 5.6%, which included identical sales growth in *Our Brands* categories of 9.0%. Identical sales, excluding fuel, would have grown 5.8% in 2022 if not for the reduction in pharmacy sales from our termination of our agreement with Express Scripts effective December 31, 2022. This terminated agreement had no material effect on profitability.
- Digital sales increased 4%, which was led by strength in our Delivery solutions, which grew by 25%. Delivery solutions growth was driven by our Boost membership program and expansion of our Kroger Delivery network. Digital sales include products ordered online and picked up at our stores and our Delivery and Ship solutions. Our Delivery solutions include orders delivered to customers from retail store locations, customer fulfillment centers powered by Ocado and orders placed through third-party platforms. Our Ship solutions primarily include online orders placed through our owned platforms that are dispatched using mail service or third-party courier.
- We are currently operating in a more volatile inflationary environment and we experienced higher product cost inflation during 2022, compared to 2021. Our LIFO charge for 2022 was \$626 million, compared to \$197 million in 2021. This increase was attributable to higher product cost inflation primarily in grocery.
- Achieved cost savings greater than \$1 billion for the fifth consecutive year.

Significant Events

- As previously disclosed, on October 13, 2022, we entered into a merger agreement with Albertsons. In connection with the merger agreement, we entered into a commitment letter for a bridge term loan facility and executed a term loan credit agreement. During the third quarter of 2022, we paused our share repurchase program to prioritize deleveraging following the proposed merger with Albertsons. For additional information about the proposed merger with Albertsons, see Note 16 to the Consolidated Financial Statements.
- During 2022, we opened four additional Kroger Delivery customer fulfillment centers powered by Ocado's automated smart platform — one in Dallas, Texas, one in Pleasant Prairie, Wisconsin, one in Romulus, Michigan and one in Aurora, Colorado.

- During 2022, we recognized legal settlement costs of \$85 million, \$67 million net of tax, relating to the settlement of all opioid litigation claims with the State of New Mexico. This amount was excluded from our adjusted FIFO operating profit and adjusted net earnings results to reflect the unique and non-recurring nature of the charge. This settlement is not an admission of wrongdoing or liability by Kroger and we will continue to vigorously defend against other claims and lawsuits relating to opioids. This settlement is based on a set of unique and specific facts relating to New Mexico, and we do not believe that the settlement amount or any other terms of our agreement with New Mexico can or should be extrapolated to any other opioid-related cases pending against us. It is our view that this settlement is not a reliable proxy for the outcome of any other cases or the overall level of our exposure.
- During 2022, we recorded a goodwill and fixed asset impairment charge related to Vitacost.com for \$164 million. The talent and capabilities gained through the merger with Vitacost in 2014 have been key to advancing Kroger's digital platform and growing our digital business to more than \$10 billion in annual sales. As our digital strategy has evolved, our primary focus looking forward will be to effectively utilize our Pickup and Delivery capabilities and this reprioritization resulted in the impairment charge. Vitacost.com will continue to operate as an online platform providing great value natural, organic, and eco-friendly products for customers.

OUR BUSINESS

The Kroger Co. (the "Company" or "Kroger") was founded in 1883 and incorporated in 1902. Our Company is built on the foundation of our food retail business, which includes the added convenience of our retail pharmacies and fuel centers. Our strategy is focused on growing customer loyalty by delivering great value and convenience, and investing in four strategic pillars: Fresh, *Our Brands*, Data & Personalization and Seamless.

We also utilize the data and traffic generated by our retail business to deliver incremental value and services for our customers that generates alternative profit streams. These alternative profit streams would not exist without our core retail business.

Our revenues are predominately earned and cash is generated as consumer products are sold to customers in our stores, fuel centers and via our online platforms. We earn income predominately by selling products at price levels that produce revenues in excess of the costs we incur to make these products available to our customers. Such costs include procurement and distribution costs, facility occupancy and operational costs, and overhead expenses. Our retail operations, which represent 97% of our consolidated sales, is our only reportable segment.

Kroger is diversified across brands, product categories, channels of distribution, geographies and consumer demographics. Our combination of assets include the following:

Stores

As of January 28, 2023, Kroger operates supermarkets under a variety of local banner names in 35 states and the District of Columbia. As of January 28, 2023, Kroger operated, either directly or through its subsidiaries, 2,719 supermarkets, of which 2,252 had pharmacies and 1,637 had fuel centers. We connect with customers through our expanding seamless ecosystem and the consistent delivery of a full, fresh, and friendly customer experience. Fuel sales are an important part of our revenue, net earnings and loyalty offering. Our fuel strategy is to include a fuel center at each of our supermarket locations when it is feasible and it is expected to be profitable.

Seamless Digital Ecosystem

We offer a convenient shopping experience for our customers regardless of how they choose to shop with us, including Pickup, Delivery and Ship. We offer Pickup and Harris Teeter ExpressLane™ — personalized, order online, pick up at the store services — at 2,274 of our supermarkets and provide Delivery, which allows us to offer digital solutions to substantially all of our customers. Our Delivery solutions include orders delivered to customers from retail store locations and customer fulfillment centers powered by Ocado. These channels allow us to serve customers anything, anytime, and anywhere with zero compromise on selection, convenience, and price. We also provide relevant customer-facing apps and interfaces that have the features customers want that are also reliable, easy to use and deliver a seamless customer experience across our store and digital channels.

Merchandising and Manufacturing

Our Brands products play an important role in our merchandising strategy and represented over \$30 billion of our sales in 2022. We operate 33 food production plants, primarily bakeries and dairies, which supply approximately 30% of *Our Brands* units and 42% of the grocery category *Our Brands* units sold in our supermarkets; the remaining *Our Brands* items are produced to our strict specifications by outside manufacturers.

Our Data

We are evolving from a traditional food retailer into a more diverse, food first business. The traffic and data generated by our retail supermarket business, including pharmacies and fuel centers, is enabling this transformation. Kroger serves approximately 60 million households annually and because of our rewards program, over 90% of customer transactions are tethered to a Kroger loyalty card. Our 20 years of investment in data science capabilities is allowing us to utilize this data to create personalized experiences and value for our customers and is also enabling our fast-growing, high operating margin alternative profit businesses, including data analytic services and third party media revenue. Our retail media business – Kroger Precision Marketing – provides best in class media capabilities for our consumer packaged goods partners and is a key driver of our digital profitability and alternative profit.

Proposed Merger with Albertsons

As previously disclosed, on October 13, 2022, we entered into a merger agreement with Albertsons. The proposed merger is expected to accelerate our go-to-market strategy that includes Fresh, *Our Brands*, Personalization and Seamless, and continue our track record of investments across lowering prices, enhancing the customer experience, and increasing associate wages and benefits. For additional information about the proposed merger with Albertsons, see Note 16 to the Consolidated Financial Statements.

USE OF NON-GAAP FINANCIAL MEASURES

The accompanying Consolidated Financial Statements, including the related notes, are presented in accordance with generally accepted accounting principles (“GAAP”). We provide non-GAAP measures, including First-In, First-Out (“FIFO”) gross margin, FIFO operating profit, adjusted FIFO operating profit, adjusted net earnings and adjusted net earnings per diluted share because management believes these metrics are useful to investors and analysts. These non-GAAP financial measures should not be considered as an alternative to gross margin, operating profit, net earnings and net earnings per diluted share or any other GAAP measure of performance. These measures should not be reviewed in isolation or considered as a substitute for our financial results as reported in accordance with GAAP.

We calculate FIFO gross margin as FIFO gross profit divided by sales. FIFO gross profit is calculated as sales less merchandise costs, including advertising, warehousing, and transportation expenses, but excluding the Last-In, First-Out (“LIFO”) charge. Merchandise costs exclude depreciation and rent expenses. FIFO gross margin is an important measure used by management and management believes FIFO gross margin is a useful metric to investors and analysts because it measures the merchandising and operational effectiveness of our go-to-market strategy.

We calculate FIFO operating profit as operating profit excluding the LIFO charge. FIFO operating profit is an important measure used by management and management believes FIFO operating profit is a useful metric to investors and analysts because it measures the operational effectiveness of our financial model.

The adjusted net earnings, adjusted net earnings per diluted share and adjusted FIFO operating profit metrics are important measures used by management to compare the performance of core operating results between periods. We believe adjusted net earnings, adjusted net earnings per diluted share and adjusted FIFO operating profit are useful metrics to investors and analysts because they present more accurate year-over-year comparisons of our net earnings, net earnings per diluted share and FIFO operating profit because adjusted items are not the result of our normal operations. Net earnings for 2022 include the following, which we define as the “2022 Adjusted Items:”

- Charges to operating, general and administrative expenses (“OG&A”) of \$25 million, \$19 million net of tax, for obligations related to withdrawal liabilities for certain multi-employer pension funds, \$20 million, \$15 million net of tax, for the revaluation of Home Chef contingent consideration, \$44 million, \$34 million net of tax, for merger related costs, \$85 million, \$67 million net of tax, for legal settlement costs and \$164 million for goodwill and fixed asset impairment charges related to Vitacost.com (the “2022 OG&A Adjusted Items”).
- Losses in other income (expense) of \$728 million, \$561 million net of tax, for the unrealized loss on investments (the “2022 Other Income (Expense) Adjusted Items”).

Net earnings for 2021 include the following, which we define as the “2021 Adjusted Items:”

- Charges to OG&A of \$449 million, \$344 million net of tax, for obligations related to withdrawal liabilities for a certain multi-employer pension fund, \$66 million, \$50 million net of tax, for the revaluation of Home Chef contingent consideration and \$136 million, \$104 million net of tax, for transformation costs (the “2021 OG&A Adjusted Items”).
- Losses in other income (expense) of \$87 million, \$68 million net of tax, related to company-sponsored pension plan settlements and \$821 million, \$628 million net of tax, for the unrealized loss on investments (the “2021 Other Income (Expense) Adjusted Items”).
- A reduction to income tax expense of \$47 million primarily due to the completion of income tax audit examinations covering multiple years.

Net earnings for 2020 include the following, which we define as the “2020 Adjusted Items:”

- Charges to OG&A of \$989 million, \$754 million net of tax, for commitments to certain multi-employer pension funds, \$189 million, \$141 million net of tax, for the revaluation of Home Chef contingent consideration and \$111 million, \$81 million net of tax, for transformation costs (the “2020 OG&A Adjusted Items”).
- Gains in other income (expense) of \$1.1 billion, \$821 million net of tax, for the unrealized gain on investments (the “2020 Other Income (Expense) Adjusted Item”).

The table below provides a reconciliation of net earnings attributable to The Kroger Co. to adjusted net earnings attributable to The Kroger Co. and a reconciliation of net earnings attributable to The Kroger Co. per diluted common share to adjusted net earnings attributable to The Kroger Co. per diluted common share excluding the 2022, 2021 and 2020 Adjusted Items:

Net Earnings per Diluted Share excluding the Adjusted Items
(\$ in millions, except per share amounts)

	2022	2021	2020
Net earnings attributable to The Kroger Co.	\$ 2,244	\$ 1,655	\$ 2,585
(Income) expense adjustments			
Adjustment for pension plan withdrawal liabilities ⁽¹⁾⁽²⁾	19	344	754
Adjustment for company-sponsored pension plan settlement charges ⁽¹⁾⁽³⁾	—	68	—
Adjustment for loss (gain) on investments ⁽¹⁾⁽⁴⁾	561	628	(821)
Adjustment for Home Chef contingent consideration ⁽¹⁾⁽⁵⁾	15	50	141
Adjustment for transformation costs ⁽¹⁾⁽⁶⁾	—	104	81
Adjustment for merger related costs ⁽¹⁾⁽⁷⁾	34	—	—
Adjustment for legal settlement costs ⁽¹⁾⁽⁸⁾	67	—	—
Adjustment for goodwill and fixed asset impairment charges related to Vitacost.com ⁽¹⁾⁽⁹⁾	164	—	—
Adjustment for income tax audit examinations ⁽¹⁾	—	(47)	—
Total Adjusted Items	<u>860</u>	<u>1,147</u>	<u>155</u>
Net earnings attributable to The Kroger Co. excluding the Adjusted Items	<u>\$ 3,104</u>	<u>\$ 2,802</u>	<u>\$ 2,740</u>
Net earnings attributable to The Kroger Co. per diluted common share	<u>\$ 3.06</u>	<u>\$ 2.17</u>	<u>\$ 3.27</u>
(Income) expense adjustments			
Adjustment for pension plan withdrawal liabilities ⁽¹⁰⁾	0.03	0.45	0.95
Adjustment for company-sponsored pension plan settlement charges ⁽¹⁰⁾	—	0.09	—
Adjustment for loss (gain) on investments ⁽¹⁰⁾	0.76	0.83	(1.05)
Adjustment for Home Chef contingent consideration ⁽¹⁰⁾	0.02	0.07	0.18
Adjustment for transformation costs ⁽¹⁰⁾	—	0.14	0.12
Adjustment for merger related costs ⁽¹⁰⁾	0.05	—	—
Adjustment for legal settlement costs ⁽¹⁰⁾	0.09	—	—
Adjustment for goodwill and fixed asset impairment charges related to Vitacost.com ⁽¹⁰⁾	0.22	—	—
Adjustment for income tax audit examinations ⁽¹⁰⁾	—	(0.07)	—
Total Adjusted Items	<u>1.17</u>	<u>1.51</u>	<u>0.20</u>
Net earnings attributable to The Kroger Co. per diluted common share excluding the Adjusted Items	<u>\$ 4.23</u>	<u>\$ 3.68</u>	<u>\$ 3.47</u>
Average numbers of common shares used in diluted calculation	<u>727</u>	<u>754</u>	<u>781</u>

(1) The amounts presented represent the after-tax effect of each adjustment, which was calculated using discrete tax rates.

(2) The pre-tax adjustment for pension plan withdrawal liabilities was \$25 in 2022, \$449 in 2021 and \$989 in 2020.

(3) The pre-tax adjustment for company-sponsored pension plan settlement charges was \$87.

(4) The pre-tax adjustment for loss (gain) on investments was \$728 in 2022, \$821 in 2021 and (\$1,105) in 2020.

(5) The pre-tax adjustment for Home Chef contingent consideration was \$20 in 2022, \$66 in 2021 and \$189 in 2020.

(6) The pre-tax adjustment for transformation costs was \$136 in 2021 and \$111 in 2020. Transformation costs primarily include costs related to store and business closure costs and third party professional consulting fees associated with business transformation and cost saving initiatives.

(7) The pre-tax adjustment for merger related costs was \$44. Merger related costs primarily include third-party professional fees and credit facility fees associated with the proposed merger with Albertsons.

(8) The pre-tax adjustment for legal settlement costs was \$85.

(9) The pre-tax and after-tax adjustments for goodwill and fixed asset impairment charges related to Vitacost.com was \$164.

(10) The amount presented represents the net earnings per diluted common share effect of each adjustment.

Key Performance Indicators

We evaluate our results of operations and cash flows using a variety of key performance indicators, such as sales, identical sales, excluding fuel, FIFO gross margin, adjusted FIFO operating profit, adjusted net earnings, adjusted net earnings per diluted share and return on invested capital. We use these financial metrics and related computations to evaluate our operational effectiveness and our results of operations from period to period and to plan for near and long-term operating and strategic decisions. These key performance indicators should not be reviewed in isolation or considered as a substitute for our financial results as reported in accordance with GAAP. These measures, which are described in more detail in this Annual Report on Form 10-K, may not be comparable to similarly-titled performance indicators used by other companies.

RESULTS OF OPERATIONS

Sales

Total Sales
(\$ in millions)

	2022	Percentage Change ⁽¹⁾	2021	Percentage Change ⁽²⁾	2020
Total sales to retail customers without fuel ⁽³⁾	\$ 128,664	5.2 %	\$ 122,293	0.1 %	\$ 122,134
Supermarket fuel sales	18,632	26.9 %	14,678	54.7 %	9,486
Other sales ⁽⁴⁾	962	4.9 %	917	4.4 %	878
Total sales	\$ 148,258	7.5 %	\$ 137,888	4.1 %	\$ 132,498

(1) This column represents the percentage change in 2022 compared to 2021.

(2) This column represents the percentage change in 2021 compared to 2020.

(3) Digital sales are included in the “total sales to retail customers without fuel” line above. Digital sales include products ordered online and picked up at our stores and our Delivery and Ship solutions. Our Delivery solutions include orders delivered to customers from retail store locations, customer fulfillment centers powered by Ocado and orders placed through third-party platforms. Our Ship solutions primarily include online orders placed through our owned platforms that are dispatched using mail service or third-party courier. Digital sales increased approximately 4% in 2022, decreased approximately 3% in 2021 and grew approximately 116% in 2020. Digital sales growth for 2022 was led by strength in our Delivery solutions, which grew by 25% in 2022. Delivery solutions growth was driven by our Boost membership program and expansion of our Kroger Delivery network. The change in results for 2021 compared to 2020 is primarily due to cycling COVID-19 trends. While digital sales decreased 3% during 2021, almost all customers who reduced their online spend during the year continued to shop with us in store, highlighting the power of our seamless ecosystem and our ability to create a meaningful customer experience across channels.

(4) Other sales primarily relate to external sales at food production plants, data analytic services and third-party media revenue. The increase in 2022, compared to 2021, and the increase in 2021, compared to 2020, is primarily due to an increase in data analytic services and third-party media revenue, partially offset by decreased external sales at food production plants due to the closing of a plant during 2021.

Total sales increased in 2022, compared to 2021, by 7.5%. The increase was primarily due to increases in supermarket fuel sales and total sales to retail customers without fuel. Total sales, excluding fuel, increased 5.2% in 2022, compared to 2021, which was primarily due to our identical sales increase, excluding fuel, of 5.6%, partially offset by discontinued patient therapies at Kroger Specialty Pharmacy. Identical sales, excluding fuel, for 2022, compared to 2021, increased primarily due to an increase in the number of households shopping with us and an increase in basket value due to retail inflation, partially offset by a reduction in the number of items in basket and the termination of our agreement with Express Scripts. Identical sales without fuel would have grown 5.8% in 2022 if not for the reduction in pharmacy sales from our termination of our agreement with Express Scripts effective December 31, 2022. Total supermarket fuel sales increased 26.9% in 2022, compared to 2021, primarily due to an increase in the average retail fuel price of 28.5%, partially offset by a decrease in fuel gallons sold of 1.2%, which was less than the national average decline. The increase in the average retail fuel price was caused by an increase in the product cost of fuel.

Total sales increased in 2021, compared to 2020, by 4.1%. The increase was primarily due to an increase in supermarket fuel sales. Total sales, excluding fuel, increased 0.2% in 2021, compared to 2020, which was primarily due to our identical sales increase, excluding fuel, of 0.2%. Identical sales, excluding fuel, increased in 2021 on top of record sales results in 2020, which was primarily caused by unprecedented demand due to the COVID-19 pandemic during 2020. Total supermarket fuel sales increased 54.7% in 2021, compared to 2020, primarily due to an increase in fuel gallons sold of 7.9% and an increase in the average retail fuel price of 43.6%. The increase in the average retail fuel price was caused by an increase in the product cost of fuel.

We calculate identical sales, excluding fuel, as sales to retail customers, including sales from all departments at identical supermarket locations, Kroger Specialty Pharmacy businesses and Delivery and Ship solutions. We define a supermarket as identical when it has been in operation without expansion or relocation for five full quarters. We define Kroger Specialty Pharmacy businesses as identical when physical locations have been in operation continuously for five full quarters; discontinued patient therapies are excluded from the identical sales calculation starting in the quarter of transfer or termination. We define Kroger Delivery identical sales powered by Ocado based on geography. We include Kroger Delivery sales powered by Ocado as identical if the delivery occurs in an existing Kroger supermarket geography. If the Kroger Delivery sales powered by Ocado occur in a new geography, these sales are included as identical when deliveries have occurred to the new geography for five full quarters. Although identical sales is a relatively standard term, numerous methods exist for calculating identical sales growth. As a result, the method used by our management to calculate identical sales may differ from methods other companies use to calculate identical sales. It is important to understand the methods used by other companies to calculate identical sales before comparing our identical sales to those of other such companies. Our identical sales, excluding fuel, results are summarized in the following table. We used the identical sales, excluding fuel, dollar figures presented below to calculate percentage changes for 2022 and 2021.

Identical Sales (\$ in millions)		2022	2021
Excluding fuel		\$ 127,635	\$ 120,846
Excluding fuel		5.6 %	0.2 %

Gross Margin, LIFO and FIFO Gross Margin

We define gross margin as sales minus merchandise costs, including advertising, warehousing, and transportation. Rent expense, depreciation and amortization expense, and interest expense are not included in gross margin.

Our gross margin rates, as a percentage of sales, were 21.43% in 2022 and 22.01% in 2021. The decrease in rate in 2022, compared to 2021, resulted primarily from increased fuel sales, which have a lower gross margin rate, a decrease in our fuel gross margin, increased shrink, as a percentage of sales, and a higher LIFO charge, partially offset by our ability to effectively manage product cost inflation through strong sourcing practices while maintaining competitive prices and helping customers manage their budgets and the cycling of a write down related to a donation of personal protective equipment inventory from the prior year.

Our LIFO charge was \$626 million in 2022 and \$197 million in 2021. The increase in our LIFO charge was attributable to higher product cost inflation primarily in grocery.

Our FIFO gross margin rate, which excludes the LIFO charge, was 21.86% in 2022, compared to 22.15% in 2021. Our fuel sales lower our FIFO gross margin rate due to the very low FIFO gross margin rate, as a percentage of sales, of fuel sales compared to non-fuel sales. Excluding the effect of fuel, our FIFO gross margin rate decreased 9 basis points in 2022, compared to 2021. This decrease resulted primarily from increased shrink, as a percentage of sales, partially offset by our ability to effectively manage product cost inflation through strong sourcing practices while maintaining competitive prices and helping customers manage their budgets and the cycling of a write down related to a donation of personal protective equipment inventory from the prior year.

Operating, General and Administrative Expenses

OG&A expenses consist primarily of employee-related costs such as wages, healthcare benefit costs, retirement plan costs, utilities, and credit card fees. Rent expense, depreciation and amortization expense, and interest expense are not included in OG&A.

OG&A expenses, as a percentage of sales, were 16.09% in 2022 and 16.83% in 2021. The decrease in 2022, compared to 2021, resulted primarily from the effect of sales leverage across fuel and supermarkets, which decreases our OG&A rate, as a percentage of sales, lower contributions to multi-employer pension plans, decreased healthcare costs, the 2021 OG&A Adjusted Items and broad-based improvement from cost savings initiatives that drive administrative efficiencies, store productivity and sourcing cost reductions, partially offset by investments in our associates, costs related to strategic investments in various margin expansion initiatives that will drive future growth and the 2022 OG&A Adjusted Items.

Our fuel sales lower our OG&A rate, as a percentage of sales, due to the very low OG&A rate, as a percentage of sales, of fuel sales compared to non-fuel sales. Excluding the effect of fuel, the 2022 OG&A Adjusted Items and the 2021 OG&A Adjusted Items, our OG&A rate decreased 19 basis points in 2022, compared to 2021. This decrease resulted primarily from the effect of supermarket sales leverage, which decreases our OG&A rate, as a percentage of sales, lower contributions to multi-employer pension plans, decreased healthcare costs and broad-based improvement from cost savings initiatives that drive administrative efficiencies, store productivity and sourcing cost reductions, partially offset by investments in our associates and costs related to strategic investments in various margin expansion initiatives that will drive future growth.

Rent Expense

Rent expense was \$839 million, or 0.57% of sales, for 2022, compared to \$845 million, or 0.61% of sales, for 2021. Rent expense, as a percentage of sales, decreased 4 basis points in 2022, compared to 2021, primarily due to sales leverage and the completion of a property transaction during the first quarter of 2021 related to 28 previously leased properties that we are now accounting for as owned locations and therefore recognizing depreciation and amortization expense over their useful life. For additional information about this transaction, see Note 5 to the Consolidated Financial Statements.

Depreciation and Amortization Expense

Depreciation and amortization expense was \$3.0 billion, or 2.00% of sales, for 2022, compared to \$2.8 billion, or 2.05% of sales, for 2021. Depreciation and amortization expense, as a percentage of sales, decreased 5 basis points in 2022, compared to 2021, primarily due to sales leverage.

Operating Profit and FIFO Operating Profit

Operating profit was \$4.1 billion, or 2.78% of sales, for 2022, compared to \$3.5 billion, or 2.52% of sales, for 2021. Operating profit, as a percentage of sales, increased 26 basis points in 2022, compared to 2021, due to decreased OG&A expense, as a percentage of sales, partially offset by an increased LIFO charge and a lower FIFO gross margin rate. Fuel earnings also contributed to our operating profit growth for 2022, compared to 2021.

FIFO operating profit was \$4.8 billion, or 3.21% of sales, for 2022, compared to \$3.7 billion, or 2.66% of sales, for 2021. FIFO operating profit, as a percentage of sales, excluding the 2022 and 2021 Adjusted Items, increased 30 basis points in 2022, compared to 2021, due to decreased OG&A expense, as a percentage of sales, partially offset by a lower FIFO gross margin rate. Fuel earnings also contributed to our FIFO operating profit growth for 2022, compared to 2021.

Specific factors contributing to the trends driving operating profit and FIFO operating profit identified above are discussed earlier in this section.

The following table provides a reconciliation of operating profit to FIFO operating profit, and to Adjusted FIFO operating profit, excluding the 2022 and 2021 Adjusted Items:

Operating Profit excluding the Adjusted Items (\$ in millions)		
	2022	2021
Operating profit	\$ 4,126	\$ 3,477
LIFO charge	626	197
 FIFO Operating profit	 4,752	 3,674
Adjustment for pension plan withdrawal liabilities	25	449
Adjustment for Home Chef contingent consideration	20	66
Adjustment for transformation costs ⁽¹⁾	—	136
Adjustment for merger related costs ⁽²⁾	44	—
Adjustment for legal settlement costs	85	—
Adjustment for goodwill and fixed asset impairment charges related to Vitacost.com	164	—
Other	(11)	(15)
 2022 and 2021 Adjusted items	 327	 636
Adjusted FIFO operating profit excluding the adjusted items above	<u>\$ 5,079</u>	<u>\$ 4,310</u>

(1) Transformation costs primarily include costs related to third-party professional consulting fees associated with business transformation and cost saving initiatives.
 (2) Merger related costs primarily include third party professional fees and credit facility fees associated with the proposed merger with Albertsons.

Interest Expense

Interest expense totaled \$535 million in 2022 and \$571 million in 2021. The decrease in interest expense in 2022, compared to 2021, was primarily due to decreased average total outstanding debt throughout 2022, compared to 2021, including both the current and long-term portions of obligations under finance leases, and increased interest income earned on our cash and temporary cash investments due to rising interest rates throughout 2022, compared to 2021.

Income Taxes

Our effective income tax rate was 22.5% in 2022 and 18.8% in 2021. The 2022 tax rate differed from the federal statutory rate due to the effect of state income taxes and non-deductible goodwill impairment charges related to Vitacost.com, partially offset by the benefit from share-based payments and the utilization of tax credits. The 2021 tax rate differed from the federal statutory rate due to a discrete benefit of \$47 million which was primarily from the favorable outcome of income tax audit examinations covering multiple years, the benefit from share-based payments and the utilization of tax credits, partially offset by the effect of state income taxes.

Net Earnings and Net Earnings Per Diluted Share

Our net earnings are based on the factors discussed in the Results of Operations section.

Net earnings of \$3.06 per diluted share for 2022 represented an increase of 41.0% compared to net earnings of \$2.17 per diluted share for 2021. Adjusted net earnings of \$4.23 per diluted share for 2022 represented an increase of 14.9% compared to adjusted net earnings of \$3.68 per diluted share for 2021. The increase in adjusted net earnings per diluted share resulted primarily from increased FIFO operating profit, excluding fuel, increased fuel earnings and lower weighted average common shares outstanding due to common share repurchases, partially offset by a higher LIFO charge and higher income tax expense.

RETURN ON INVESTED CAPITAL

We calculate return on invested capital (“ROIC”) by dividing adjusted ROIC operating profit for the prior four quarters by the average invested capital. Adjusted operating profit for ROIC purposes is calculated by excluding certain items included in operating profit, and adding back our LIFO charge, depreciation and amortization and rent to our U.S. GAAP operating profit of the prior four quarters. Average invested capital is calculated as the sum of (i) the average of our total assets, (ii) the average LIFO reserve and (iii) the average accumulated depreciation and amortization; minus (i) the average taxes receivable, (ii) the average trade accounts payable, (iii) the average accrued salaries and wages and (iv) the average other current liabilities, excluding accrued income taxes. Averages are calculated for ROIC by adding the beginning balance of the first quarter and the ending balance of the fourth quarter, of the last four quarters, and dividing by two. ROIC is a non-GAAP financial measure of performance. ROIC should not be reviewed in isolation or considered as a substitute for our financial results as reported in accordance with GAAP. ROIC is an important measure used by management to evaluate our investment returns on capital. Management believes ROIC is a useful metric to investors and analysts because it measures how effectively we are deploying our assets.

Although ROIC is a relatively standard financial term, numerous methods exist for calculating a company’s ROIC. As a result, the method used by our management to calculate ROIC may differ from methods other companies use to calculate their ROIC. We urge you to understand the methods used by other companies to calculate their ROIC before comparing our ROIC to that of such other companies.

The following table provides a calculation of ROIC for 2022 and 2021 on a 52 week basis (\$ in millions):

	Fiscal Year Ended	
	January 28, 2023	January 29, 2022
Return on Invested Capital		
Numerator		
Operating profit	\$ 4,126	\$ 3,477
LIFO charge	626	197
Depreciation and amortization	2,965	2,824
Rent	839	845
Adjustment for Home Chef contingent consideration	20	66
Adjustment for pension plan withdrawal liabilities	25	449
Adjustment for goodwill and fixed asset impairment charges related to Vitacost.com	164	—
Adjustment for merger related costs	44	—
Adjustment for transformation costs	—	136
Adjustment for legal settlement costs	85	—
Adjusted ROIC operating profit	<u>\$ 8,894</u>	<u>\$ 7,994</u>
Denominator		
Average total assets	\$ 49,355	\$ 48,874
Average taxes receivable ⁽¹⁾	(137)	(54)
Average LIFO reserve	1,883	1,472
Average accumulated depreciation and amortization ⁽²⁾	27,843	24,868
Average trade accounts payable	(7,118)	(6,898)
Average accrued salaries and wages	(1,741)	(1,575)
Average other current liabilities ⁽³⁾	(6,333)	(5,976)
Average invested capital	<u>\$ 63,752</u>	<u>\$ 60,711</u>
Return on Invested Capital	<u>13.95 %</u>	<u>13.17 %</u>

(1) Taxes receivable were \$231 as of January 28, 2023, \$42 as of January 29, 2022 and \$66 as of January 30, 2021.

(2) Accumulated depreciation and amortization includes depreciation for property, plant and equipment and amortization for definite-lived intangible assets.

(3) Other current liabilities included accrued income taxes of \$9 as of January 30, 2021. We did not have any accrued income taxes as of January 28, 2023 or January 29, 2022. Accrued income taxes are removed from other current liabilities in the calculation of average invested capital.

CRITICAL ACCOUNTING ESTIMATES

We have chosen accounting policies that we believe are appropriate to report accurately and fairly our operating results and financial position, and we apply those accounting policies in a consistent manner. Our significant accounting policies are summarized in Note 1 to the Consolidated Financial Statements.

The preparation of financial statements in conformity with GAAP requires us to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues, and expenses, and related disclosures of contingent assets and liabilities. We base our estimates on historical experience and other factors we believe to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results could differ from those estimates.

We believe the following accounting estimates are the most critical in the preparation of our financial statements because they involve the most difficult, subjective or complex judgments about the effect of matters that are inherently uncertain.

Impairments of Long-Lived Assets

We monitor the carrying value of long-lived assets for potential impairment each quarter based on whether certain triggering events have occurred. These events include current period losses combined with a history of losses or a projection of continuing losses or a significant decrease in the market value of an asset. When a triggering event occurs, we perform an impairment calculation, comparing projected undiscounted cash flows, utilizing current cash flow information and expected growth rates related to specific stores, to the carrying value for those stores. If we identify impairment for long-lived assets to be held and used, we compare the assets' current carrying value to the assets' fair value. Fair value is determined based on market values or discounted future cash flows. We record impairment when the carrying value exceeds fair market value. With respect to owned property and equipment held for disposal, we adjust the value of the property and equipment to reflect recoverable values based on our previous efforts to dispose of similar assets and current economic conditions. We recognize impairment for the excess of the carrying value over the estimated fair market value, reduced by estimated direct costs of disposal. We recorded asset impairments in the normal course of business totaling \$68 million in 2022 and \$64 million in 2021. We record costs to reduce the carrying value of long-lived assets in the Consolidated Statements of Operations as OG&A expense.

The factors that most significantly affect the impairment calculation are our estimates of future cash flows. Our cash flow projections look several years into the future and include assumptions on variables such as inflation, the economy and market competition. Application of alternative assumptions and definitions, such as reviewing long-lived assets for impairment at a different level, could produce significantly different results.

Business Combinations

We account for business combinations using the acquisition method of accounting. All the assets acquired, liabilities assumed and amounts attributable to noncontrolling interests are recorded at their respective fair values at the date of acquisition once we obtain control of an entity. The determination of fair values of identifiable assets and liabilities involves estimates and the use of valuation techniques when market value is not readily available. We use various techniques to determine fair value in such instances, including the income approach. Significant estimates used in determining fair value include, but are not limited to, the amount and timing of future cash flows, growth rates, discount rates and useful lives. The excess of the purchase price over fair values of identifiable assets and liabilities is recorded as goodwill. See Note 2 for further information about goodwill.

Goodwill

Our goodwill totaled \$2.9 billion as of January 28, 2023. We review goodwill for impairment in the fourth quarter of each year, and also upon the occurrence of triggering events. We perform reviews of each of our operating divisions and other consolidated entities (collectively, “reporting units”) that have goodwill balances. Generally, fair value is determined using a multiple of earnings, or discounted projected future cash flows, and we compare fair value to the carrying value of a reporting unit for purposes of identifying potential impairment. We base projected future cash flows on management’s knowledge of the current operating environment and expectations for the future. We recognize goodwill impairment for any excess of a reporting unit’s carrying value over its fair value, not to exceed the total amount of goodwill allocated to the reporting unit.

In 2022, we recorded a goodwill impairment charge for Vitacost.com totaling \$160 million. The talent and capabilities gained through the merger with Vitacost in 2014 have been key to advancing Kroger’s digital platform and growing our digital business to more than \$10 billion in annual sales. As our digital strategy has evolved, our primary focus looking forward will be to effectively utilize our Pickup and Delivery capabilities. This reprioritization resulted in reduced long-term profitability expectations and a decline in the market value for one underlying channel of business and led to the impairment charge. Vitacost.com will continue to operate as an online platform providing great value natural, organic, and eco-friendly products for customers.

The annual evaluation of goodwill performed in 2022, 2021 and 2020 did not result in impairment for any of our reporting units other than Vitacost.com described above. Based on current and future expected cash flows, we believe additional goodwill impairments are not reasonably likely. A 10% reduction in fair value of our reporting units would not indicate a potential for impairment of our goodwill balance.

The 2022 fair value of our Kroger Specialty Pharmacy (“KSP”) reporting unit was estimated using multiple valuation techniques: a discounted cash flow model (income approach), a market multiple model and a comparable mergers and acquisition model (market approaches), with each method weighted in the calculation. The income approach relies on management’s projected future cash flows, estimates of revenue growth rates, margin assumptions and an appropriate discount rate. The market approaches require the determination of an appropriate peer group, which is utilized to derive estimated fair values based on selected market multiples. Our KSP reporting unit has a goodwill balance of \$243 million.

For additional information relating to our results of the goodwill impairment reviews performed during 2022, 2021 and 2020, see Note 2 to the Consolidated Financial Statements.

The impairment review requires the extensive use of management judgment and financial estimates. Application of alternative estimates and assumptions could produce significantly different results. The cash flow projections embedded in our goodwill impairment reviews can be affected by several factors such as inflation, business valuations in the market, the economy, market competition and our ability to successfully integrate recently acquired businesses.

Multi-Employer Pension Plans

We contribute to various multi-employer pension plans based on obligations arising from collective bargaining agreements. These multi-employer pension plans provide retirement benefits to participants based on their service to contributing employers. The benefits are paid from assets held in trust for that purpose. Trustees are appointed in equal number by employers and unions. The trustees typically are responsible for determining the level of benefits to be provided to participants as well as for such matters as the investment of the assets and the administration of the plans.

We recognize expense in connection with these plans as contributions are funded or when commitments are probable and reasonably estimable, in accordance with GAAP. We made cash contributions to these plans of \$620 million in 2022, \$1.1 billion in 2021 and \$619 million in 2020. The decrease in 2022, compared to 2021, and the increase in 2021, compared to 2020, are due to the contractual payments we made in 2021 related to our commitments established for the restructuring of certain multi-employer pension plan agreements.

We continue to evaluate and address our potential exposure to under-funded multi-employer pension plans as it relates to our associates who are beneficiaries of these plans. These under-fundings are not our liability. When an opportunity arises that is economically feasible and beneficial to us and our associates, we may negotiate the restructuring of under-funded multi-employer pension plan obligations to help stabilize associates' future benefits and become the fiduciary of the restructured multi-employer pension plan. The commitments from these restructurings do not change our debt profile as it relates to our credit rating since these off-balance sheet commitments are typically considered in our investment grade debt rating. We are currently designated as the named fiduciary of the UFCW Consolidated Pension Plan and the International Brotherhood of Teamsters ("IBT") Consolidated Pension Fund and have sole investment authority over these assets. Significant effects of these restructuring agreements recorded in our Consolidated Financial Statements are:

- In 2022, we incurred a \$25 million charge, \$19 million net of tax, for obligations related to withdrawal liabilities for certain multi-employer pension funds.
- In 2021, we incurred a \$449 million charge, \$344 million net of tax, for obligations related to withdrawal liabilities for a certain multi-employer pension fund.
- In 2020, we incurred a \$989 million charge, \$754 million net of tax, for commitments to certain multi-employer pension funds.

As we continue to work to find solutions to under-funded multi-employer pension plans, it is possible we could incur withdrawal liabilities for certain funds.

Based on the most recent information available to us, we believe the present value of actuarially accrued liabilities in most of these multi-employer plans exceeds the value of the assets held in trust to pay benefits, and we expect that our contributions to most of these funds will increase over the next few years. We have attempted to estimate the amount by which these liabilities exceed the assets, (i.e., the amount of underfunding), as of December 31, 2022. Because we are only one of a number of employers contributing to these plans, we also have attempted to estimate the ratio of our contributions to the total of all contributions to these plans in a year as a way of assessing our "share" of the underfunding. Nonetheless, the underfunding is not a direct obligation or liability of ours or of any employer.

As of December 31, 2022, we estimate our share of the underfunding of multi-employer pension plans to which we contribute was approximately \$2.5 billion, \$1.9 billion net of tax. This represents an increase in the estimated amount of underfunding of approximately \$1.4 billion, \$1.1 billion net of tax, as of December 31, 2022, compared to December 31, 2021. The increase in the amount of underfunding is primarily attributable to lower than expected returns on assets in the funds during 2022. Our estimate is based on the most current information available to us including actuarial evaluations and other data (that include the estimates of others), and such information may be outdated or otherwise unreliable.

We have made and disclosed this estimate not because, except as noted above, this underfunding is a direct liability of ours. Rather, we believe the underfunding is likely to have important consequences. In the event we were to exit certain markets or otherwise cease making contributions to these plans, we could trigger a substantial withdrawal liability. Any adjustment for withdrawal liability will be recorded when it is probable that a liability exists and can be reasonably estimated, in accordance with GAAP.

The amount of underfunding described above is an estimate and could change based on contract negotiations, returns on the assets held in the multi-employer pension plans, benefit payments or future restructuring agreements. The amount could decline, and our future expense would be favorably affected, if the values of the assets held in the trust significantly increase or if further changes occur through collective bargaining, trustee action or favorable legislation. On the other hand, our share of the underfunding could increase and our future expense could be adversely affected if the asset values decline, if employers currently contributing to these funds cease participation or if changes occur through collective bargaining, trustee action or adverse legislation. We continue to evaluate our potential exposure to under-funded multi-employer pension plans. Although these liabilities are not a direct obligation or liability of ours, any commitments to fund certain multi-employer pension plans will be expensed when our commitment is probable and an estimate can be made.

The American Rescue Plan Act ("ARP Act"), which was signed into law on March 11, 2021, established a special financial assistance program for financially troubled multi-employer pension plans. Under the ARP Act, eligible multi-employer plans can apply to receive a cash payment in an amount projected by the Pension Benefit Guaranty Corporation to pay pension benefits through the plan year ending 2051. At the end of 2022, we expect certain multi-employer pension plans in which we participate, for which our estimated share of underfunding is approximately \$1.0 billion, \$750 million net of tax, to apply for funding in 2023, which may reduce a portion of our share of unfunded multi-employer pension plan liabilities.

See Note 15 to the Consolidated Financial Statements for more information relating to our participation in these multi-employer pension plans.

NEW ACCOUNTING STANDARDS

Refer to Note 17 to the Consolidated Financial Statements for recently issued accounting standards not yet adopted as of January 28, 2023.

LIQUIDITY AND CAPITAL RESOURCES

Cash Flow Information

The following table summarizes our net (decrease) increase in cash and temporary cash investments for 2022 and 2021:

	Fiscal Year	
	2022	2021
Net cash provided by (used in)		
Operating activities	\$ 4,498	\$ 6,190
Investing activities	(3,015)	(2,611)
Financing activities	(2,289)	(3,445)
Net (decrease) increase in cash and temporary cash investments	\$ (806)	\$ 134

Net cash provided by operating activities

We generated \$4.5 billion of cash from operations in 2022, compared to \$6.2 billion in 2021. Net earnings including noncontrolling interests, adjusted for non-cash items, generated approximately \$7.7 billion of operating cash flow in 2022 compared to \$6.4 billion in 2021. Cash used by operating activities for changes in operating assets and liabilities, including working capital, was \$3.2 billion in 2022 compared to \$229 million in 2021. The increase in cash used by operating activities for changes in operating assets and liabilities, including working capital, in 2022 compared to 2021, and compared to management's expectations, was primarily due to a variety of factors, including the effect of higher inflation on inventory balances, some forward buying of inventory to protect margins, and the timing of payments related to certain trade accounts payable and receivables. Specifically:

- An increase in pharmacy receivables at the end of 2022, compared to the end of 2021, primarily due to timing of cash receipts;
- An increase in FIFO inventory at the end of 2022, compared to the end of 2021, primarily due to rising costs resulting from continued inflationary cost pressures, in stock inventory returning to pre-pandemic levels due to a reduction of supply chain constraints and increased forward buying to protect gross margin;
- A decrease in prepaid and other current assets at the end of 2021, compared to the end of 2020, primarily due to the transfer of prepaid escrow funds in the first quarter of 2021 to fulfill obligations related to the restructuring of multi-employer pension plans;
- An increase in trade accounts payable at the end of 2021, compared to the end of 2020, primarily due to timing of payments;

- An increase in cash used by operating activities for changes in accrued expenses in 2022, compared to 2021, primarily due to the following:
 - An increase in accrued payroll at the end of 2021, compared to the end of 2020, primarily due to timing of payments;
 - A decrease in accrued expenses at the end of 2022, compared to the end of 2021, primarily due to the payment of the employer portion of social security tax in 2022 that had previously been deferred under the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”) which was enacted in 2020; and
- An increase in income taxes receivable at the end of 2022, compared to the end of 2021, primarily due to the implementation of a tax planning strategy toward the end of 2022.

Cash paid for taxes increased in 2022, compared to 2021, primarily due to higher taxable income in 2022, compared to 2021.

Net cash used by investing activities

Investing activities used cash of \$3.0 billion in 2022, compared to \$2.6 billion in 2021. The amount of cash used by investing activities increased in 2022, compared to 2021, primarily due to increased payments for property and equipment in 2022.

Net cash used by financing activities

We used \$2.3 billion of cash for financing activities in 2022, compared to \$3.4 billion in 2021. The amount of cash used for financing activities decreased in 2022, compared to 2021, primarily due to the following:

- Decreased payments on long-term debt including obligations under finance leases; and
- Decreased treasury stock purchases;
- Partially offset by decreased proceeds from financing arrangement.

Capital Investments

Capital investments, including changes in construction-in-progress payables and excluding the purchase of leased facilities, totaled \$3.3 billion in 2022 and \$3.2 billion in 2021. Capital investments for the purchase of leased facilities totaled \$21 million in 2022. We did not purchase any leased facilities in 2021. Our capital priorities align directly with our value creation model and our target to consistently grow net earnings. Our capital program includes initiatives to enhance the customer experience in stores, improve our process efficiency and enhance our digital capabilities through technology developments. As such, we increased our allocation of capital investments related to digital and technology compared to prior years. These investments are expected to drive digital sales growth and improve operating efficiency by removing cost and waste from our business.

The table below shows our supermarket storing activity and our total supermarket square footage for 2022, 2021 and 2020:

Supermarket Storing Activity			
	2022	2021	2020
Beginning of year	2,726	2,742	2,757
Opened	3	4	5
Opened (relocation)	1	4	6
Closed (operational)	(10)	(20)	(20)
Closed (relocation)	(1)	(4)	(6)
End of year	<u>2,719</u>	<u>2,726</u>	<u>2,742</u>
Total supermarket square footage (in millions)	179	179	179

Debt Management

Total debt, including both the current and long-term portions of obligations under finance leases, increased \$14 million to \$13.4 billion as of year-end 2022 compared to 2021. This increase resulted primarily from a net increase in obligations under finance leases of \$466 million primarily related to our four additional Kroger Delivery customer fulfillment center openings during 2022, partially offset by the payment of \$400 million of senior notes bearing an interest rate of 2.80%.

Common Share Repurchase Programs

We maintain share repurchase programs that comply with Rule 10b5-1 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”) and allow for the orderly repurchase of our common shares, from time to time. The share repurchase programs do not have an expiration date but may be suspended or terminated by our Board of Directors at any time. We made open market purchases of our common shares totaling \$821 million in 2022 and \$1.4 billion in 2021. During the third quarter of 2022, we paused our share repurchase program to prioritize de-leveraging following the proposed merger with Albertsons.

In addition to these repurchase programs, we also repurchase common shares to reduce dilution resulting from our employee stock option plans. This program is solely funded by proceeds from stock option exercises, and the tax benefit from these exercises. We repurchased approximately \$172 million in 2022 and \$225 million in 2021 of our common shares under the stock option program.

On December 30, 2021, our Board of Directors approved a \$1.0 billion share repurchase program to reacquire shares via open market purchase or privately negotiated transactions, block trades, or pursuant to trades intending to comply with Rule 10b5-1 under the Exchange Act (the “December 2021 Repurchase Program”). The December 2021 Repurchase Program was exhausted during the third quarter of 2022. On September 9, 2022, our Board of Directors approved a \$1.0 billion share repurchase program to reacquire shares via open market purchase or privately negotiated transactions, block trades, or pursuant to trades intending to comply with Rule 10b5-1 under the Exchange Act (the “September 2022 Repurchase Program”). No shares have been repurchased under the September 2022 authorization. During the third quarter of 2022, we paused our share repurchase program to prioritize de-leveraging following the proposed merger with Albertsons.

The shares we repurchased in 2022 were reacquired under the following share repurchase programs:

- The December 2021 Repurchase Program.
- A program announced on December 6, 1999 to repurchase common shares to reduce dilution resulting from our employee stock option and long-term incentive plans, under which repurchases are limited to proceeds received from exercises of stock options and the tax benefits associated therewith (“1999 Repurchase Program”).

As of January 28, 2023, there was \$1.0 billion remaining under the September 2022 Repurchase Program.

Dividends

The following table provides dividend information for 2022 and 2021 (\$ in millions, except per share amounts):

	2022	2021
Cash dividends paid	\$ 682	\$ 589
Cash dividends paid per common share	\$ 0.94	\$ 0.78

Liquidity Needs

We held cash and temporary cash investments of \$1.0 billion, as of the end of 2022, which reflects our elevated operating performance over the last few years. We actively manage our cash and temporary cash investments in order to internally fund operating activities, support and invest in our core businesses, make scheduled interest and principal payments on our borrowings and return cash to shareholders through cash dividend payments and share repurchases. Our current levels of cash, borrowing capacity and balance sheet leverage provide us with the operational flexibility to adjust to changes in economic and market conditions. We remain committed to our dividend, and growing our dividend over time, subject to board approval, as well as share repurchase programs and we will evaluate the optimal use of any excess free cash flow, consistent with our capital allocation strategy. During the third quarter of 2022, we paused our share repurchase program to prioritize de-leveraging following the proposed merger with Albertsons.

The table below summarizes our short-term and long-term material cash requirements, based on year of maturity or settlement, as of January 28, 2023 (in millions of dollars):

Contractual Obligations⁽¹⁾⁽²⁾	2023	2024	2025	2026	2027	Thereafter	Total
Long-term debt ⁽³⁾	\$ 1,153	\$ 25	\$ 84	\$ 1,386	\$ 607	\$ 8,037	\$ 11,292
Interest on long-term debt ⁽⁴⁾	480	439	422	400	376	4,548	6,665
Finance lease obligations	228	226	222	221	223	1,492	2,612
Operating lease obligations	930	864	791	740	683	5,688	9,696
Self-insurance liability ⁽⁵⁾	236	162	106	65	38	105	712
Construction commitments ⁽⁶⁾	1,718	—	—	—	—	—	1,718
Purchase obligations ⁽⁷⁾	725	330	274	303	283	1,937	3,852
Total	\$ 5,470	\$ 2,046	\$ 1,899	\$ 3,115	\$ 2,210	\$ 21,807	\$ 36,547

- (1) The contractual obligations table excludes funding of pension and other postretirement benefit obligations, which totaled approximately \$38 million in 2022. For additional information about these obligations, see Note 14 to the Consolidated Financial Statements. This table also excludes contributions under various multi-employer pension plans, which totaled \$620 million in 2022. For additional information about these multi-employer pension plans, see Note 15 to the Consolidated Financial Statements.
- (2) The liability related to unrecognized tax benefits has been excluded from the contractual obligations table because a reasonable estimate of the timing of future tax settlements cannot be determined.
- (3) As of January 28, 2023, we had no outstanding commercial paper and no borrowings under our credit facility.
- (4) Amounts include contractual interest payments using the interest rate as of January 28, 2023 and stated fixed and swapped interest rates, if applicable, for all other debt instruments.
- (5) The amounts included for self-insurance liability related to workers' compensation claims have been stated on a present value basis.
- (6) Amounts include funds owed to third parties for projects currently under construction. These amounts are reflected in "Other current liabilities" in our Consolidated Balance Sheets.
- (7) Amounts include commitments, many of which are short-term in nature, to be utilized in the normal course of business, such as several contracts to purchase raw materials utilized in our food production plants and several contracts to purchase energy to be used in our stores and food production plants. Our obligations also include management fees for facilities operated by third parties and outside service contracts. Any upfront vendor allowances or incentives associated with outstanding purchase commitments are recorded as either current or long-term liabilities in our Consolidated Balance Sheets. We included our future commitments for customer fulfillment centers for which we have placed an order as of January 28, 2023. We did not include our commitments associated with additional customer fulfillment centers that have not yet been ordered. We expect our future commitments for customer fulfillment centers will continue to grow as we place orders for additional customer fulfillment centers.

We expect to meet our short-term and long-term liquidity needs with cash and temporary cash investments on hand as of January 28, 2023, cash flows from our operating activities and other sources of liquidity, including borrowings under our commercial paper program and bank credit facility. Our short-term and long-term liquidity needs include anticipated requirements for working capital to maintain our operations, pension plan commitments, interest payments and scheduled principal payments of debt and commercial paper, settlement of interest rate swap liabilities, servicing our lease obligations, self-insurance liabilities, capital investments and other purchase obligations. We may also require additional capital in the future to fund organic growth opportunities, additional customer fulfillment centers, joint ventures or other business partnerships, property development, acquisitions, dividends and share repurchases. In addition, we generally operate with a working capital deficit due to our efficient use of cash in funding operations and because we have consistent access to the capital markets. We believe we have adequate coverage of our debt covenants to continue to maintain our current investment grade debt ratings and to respond effectively to competitive conditions.

As previously disclosed, on October 13, 2022, we entered into a merger agreement with Albertsons. We expect to meet our liquidity needs for the proposed merger with cash and temporary cash investments on hand as of the merger closing date, cash flows from our operating activities and other sources of liquidity, including borrowings under our commercial paper program, senior notes issuances, bank credit facility and other sources of financing. In connection with the proposed merger, we entered into a commitment letter for a bridge term loan facility and executed a term loan credit agreement. During the third quarter of 2022, we paused our share repurchase program to prioritize de-leveraging following the proposed merger with Albertsons. For additional information about the proposed merger with Albertsons, see Note 16 to the Consolidated Financial Statements.

For additional information about our debt activity in 2022, see Note 5 to the Consolidated Financial Statements.

Factors Affecting Liquidity

We can currently borrow on a daily basis approximately \$2.75 billion under our commercial paper program. At January 28, 2023, we had no outstanding commercial paper. Commercial paper borrowings are backed by our credit facility and reduce the amount we can borrow under the credit facility. If our short-term credit ratings fall, the ability to borrow under our current commercial paper program could be adversely affected for a period of time and increase our interest cost on daily borrowings under our commercial paper program. This could require us to borrow additional funds under the credit facility, under which we believe we have sufficient capacity. However, in the event of a ratings decline, we do not anticipate that our borrowing capacity under our commercial paper program would be any lower than \$500 million on a daily basis. Factors that could affect our credit rating include changes in our operating performance and financial position, the state of the economy, the current inflationary environment, conditions in the food retail industry and changes in our business model. Further information on the risks and uncertainties that can affect our business can be found in the “Risk Factors” section set forth in Item 1A of Part I of this Annual Report on Form 10-K. Although our ability to borrow under the credit facility is not affected by our credit rating, the interest cost and applicable margin on borrowings under the credit facility could be affected by a downgrade in our Public Debt Rating. “Public Debt Rating” means, as of any date, the rating that has been most recently announced by either S&P or Moody’s, as the case may be, for any class of non-credit enhanced long-term senior unsecured debt issued by the Company. As of March 22, 2023, we had no commercial paper borrowings outstanding.

Our credit facility requires the maintenance of a Leverage Ratio (our “financial covenant”). A failure to maintain our financial covenant would impair our ability to borrow under the credit facility. This financial covenant is described below:

- Our Leverage Ratio (the ratio of Net Debt to Adjusted EBITDA, as defined in the credit facility) was 1.34 to 1 as of January 28, 2023. If this ratio were to exceed 3.50 to 1, we would be in default of our revolving credit facility and our ability to borrow under the facility would be impaired.

Our credit facility is more fully described in Note 5 to the Consolidated Financial Statements. We were in compliance with our financial covenant at January 28, 2023.

As of January 28, 2023, we maintained a \$2.75 billion (with the ability to increase by \$1.25 billion), unsecured revolving credit facility that, unless extended, terminates on July 6, 2026. Outstanding borrowings under the credit facility, commercial paper borrowings, and some outstanding letters of credit reduce funds available under the credit facility. As of January 28, 2023, we had no outstanding commercial paper and no borrowings under our revolving credit facility. The outstanding letters of credit that reduce funds available under our credit facility totaled \$2 million as of January 28, 2023.

In connection with the proposed merger with Albertsons, on October 13, 2022, we entered into a commitment letter with certain lenders pursuant to which the lenders have committed to provide a 364-day \$17.4 billion senior unsecured bridge term loan facility. The commitments are intended to be drawn to finance the proposed merger with Albertsons only to the extent we do not arrange for alternative financing prior to closing. As alternative financing for the proposed merger is secured, the commitments with respect to the bridge term loan facility under the commitment letter will be reduced.

On November 9, 2022, we executed a term loan credit agreement with certain lenders pursuant to which the lenders committed to provide, contingent upon the completion of the proposed merger with Albertsons and certain other customary conditions to funding, (1) senior unsecured term loans in an aggregate principal amount of \$3.0 billion maturing on the third anniversary of the proposed merger closing date and (2) senior unsecured term loans in an aggregate principal amount of \$1.75 billion maturing on the date that is 18 months after the proposed merger closing date (collectively, the “Term Loan Facilities”). Borrowings under the Term Loan Facilities will be used to pay a portion of the consideration and other amounts payable in connection with the proposed merger with Albertsons. The duration of the Term Loan Facilities will allow us to achieve our net total debt to adjusted EBITDA ratio target range of 2.30 to 2.50 within the first 18 to 24 months after the proposed merger closing date. The entry into the term loan credit agreement reduced the commitments under our bridge facility commitment letter from \$17.4 billion to \$12.65 billion. Borrowings under the Term Loan Facilities will bear interest at rates that vary based on the type of loan and our debt rating.

In addition to the available credit mentioned above, as of January 28, 2023, we had authorized for issuance \$3.3 billion of securities remaining under a shelf registration statement filed with the SEC and effective on May 20, 2022.

We maintain surety bonds related primarily to our self-insured workers’ compensation claims. These bonds are required by most states in which we are self-insured for workers’ compensation and are placed with predominately third-party insurance providers to insure payment of our obligations in the event we are unable to meet our claim payment obligations up to our self-insured retention levels. These bonds do not represent liabilities of ours, as we already have reserves on our books for the claims costs. Market changes may make the surety bonds more costly and, in some instances, availability of these bonds may become more limited, which could affect our costs of, or access to, such bonds. Although we do not believe increased costs or decreased availability would significantly affect our ability to access these surety bonds, if this does become an issue, we would issue letters of credit, in states where allowed, to meet the state bonding requirements. This could increase our cost or decrease the funds available under our credit facility if the letters of credit were issued against our credit facility. We had \$467 million of outstanding surety bonds as of January 28, 2023. These surety bonds expire during fiscal year 2023 and are expected to be renewed.

We have standby letters of credit outstanding as part of our insurance program and for other business purposes. The letters of credit for our insurance program collateralize obligations to our insurance carriers in connection with the settlement of potential claims. We have also provided a letter of credit which supports our commitment to build a certain number of fulfillment centers. The balance of this letter of credit reduces primarily upon the construction of each fulfillment center. If we do not reach our total purchase commitment, we will be responsible for the balance remaining on the letter of credit. We had \$310 million of outstanding standby letters of credit as of January 28, 2023. These standby letters of credit expire during fiscal year 2023 and are expected to be renewed. Letters of credit do not represent liabilities of ours and are not reflected in the Company’s Consolidated Balance Sheets.

We also are contingently liable for leases that have been assigned to various third parties in connection with facility closings and dispositions. We could be required to satisfy obligations under the leases if any of the assignees are unable to fulfill their lease obligations. Due to the wide distribution of our assignments among third parties, and various other remedies available to us, we believe the likelihood that we will be required to assume a material amount of these obligations is remote. We have agreed to indemnify certain third-party logistics operators for certain expenses, including multi-employer pension plan obligations and withdrawal liabilities.

In addition to the above, we enter into various indemnification agreements and take on indemnification obligations in the ordinary course of business. Such arrangements include indemnities against third-party claims arising out of agreements to provide services to us; indemnities related to the sale of our securities; indemnities of directors, officers and employees in connection with the performance of their work; and indemnities of individuals serving as fiduciaries on benefit plans. While our aggregate indemnification obligation could result in a material liability, we are not aware of any current matter that could result in a material liability.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK.

FINANCIAL RISK MANAGEMENT

In addition to the risks inherent in our operations, we are exposed to market risk from a variety of sources, including changes in interest rates, commodity prices, the fair value of certain equity investments and defined benefit pension and other post-retirement benefit plans. Our market risk exposures are discussed below.

Interest Rate Risk

We manage our exposure to interest rates and changes in the fair value of our debt instruments primarily through the strategic use of our commercial paper program, variable and fixed rate debt, and interest rate swaps. Our current program relative to interest rate protection contemplates hedging the exposure to changes in the fair value of fixed-rate debt attributable to changes in interest rates. To do this, we use the following guidelines: (i) use average daily outstanding borrowings to determine annual debt amounts subject to interest rate exposure, (ii) limit the average annual amount subject to interest rate reset and the amount of floating rate debt to a combined total amount that represents 25% of the carrying value of our debt portfolio or less, (iii) include no leveraged products, and (iv) hedge without regard to profit motive or sensitivity to current mark-to-market status.

When we use derivative financial instruments, it is primarily to manage our exposure to fluctuations in interest rates. We do not enter into derivative financial instruments for trading purposes. As a matter of policy, all of our derivative positions are intended to reduce risk by hedging an underlying economic exposure. Because of the high correlation between the hedging instrument and the underlying exposure, fluctuations in the value of the instruments generally are offset by reciprocal changes in the value of the underlying exposure. The interest rate derivatives we use are straightforward instruments with liquid markets.

As of January 28, 2023, we maintained five forward-starting interest rate swap agreements with a maturity date of August 1, 2027 with an aggregate notional amount totaling \$5.4 billion. A forward-starting interest rate swap is an agreement that effectively hedges the variability in future benchmark interest payments attributable to changes in interest rates on the forecasted issuance of fixed-rate debt. We entered into these forward-starting interest rate swaps in order to lock in fixed interest rates on our forecasted issuances of debt. The fixed interest rates for these forward-starting interest rate swaps range from 3.00% to 3.78%. The variable rate component on the forward-starting interest rate swaps is the Secured Overnight Financing Rate (SOFR). A notional amount of \$2.4 billion of these forward-starting interest rate swaps was designated as a cash-flow hedge as defined by GAAP. Accordingly, the changes in fair value of these forward-starting interest rate swaps are recorded to other comprehensive income and reclassified into net earnings when the hedged transaction affects net earnings. As of January 28, 2023, the fair value of the interest rate swaps designated as cash flow hedges was recorded in “Other long-term liabilities” for \$116 million and accumulated other comprehensive loss for \$89 million, net of tax. The remainder of the notional amount of \$3.0 billion of the forward-starting interest rate swaps was not designated as a cash-flow hedge. Accordingly, the changes in the fair value of these forward-starting interest rate swaps not designated as cash-flow hedges are recognized through net earnings. As of January 28, 2023, the fair value of these swaps was recorded in “Other long-term liabilities” for \$142 million. During 2022, we recognized an unrealized loss of \$142 million that is included in “(Loss) gain on investments” in our Consolidated Statements of Operations. We had no forward-starting interest rate swap agreements outstanding as of January 29, 2022.

Annually, we review with the Finance Committee of our Board of Directors compliance with the guidelines described above. The guidelines may change as our business needs dictate.

The tables below provide information about our underlying debt portfolio as of January 28, 2023 and January 29, 2022. The amounts shown for each year represent the contractual maturities of long-term debt, excluding finance leases, as of January 28, 2023 and January 29, 2022. Interest rates reflect the weighted average rate for the outstanding instruments. The variable rate debt is based on a reference rate using the forward yield curve as of January 28, 2023 and January 29, 2022. The Fair Value column includes the fair value of our debt instruments as of January 28, 2023 and January 29, 2022. We had no outstanding interest rate derivatives classified as fair value hedges as of January 28, 2023 or January 29, 2022. See Notes 5, 6 and 7 to the Consolidated Financial Statements.

	January 28, 2023							
	Expected Year of Maturity							
	2023	2024	2025	2026	2027	Thereafter	Total	Fair Value
Debt								
Fixed rate	\$ (1,118)	\$ (3)	\$ (3)	\$ (1,386)	\$ (607)	\$ (8,037)	\$ (11,154)	\$ (10,455)
Average interest rate	4.52 %	1.53 %	3.64 %	4.26 %	4.68 %	4.54 %		
Variable rate	\$ (35)	\$ (22)	\$ (81)	\$ —	\$ —	\$ —	\$ (138)	\$ (138)
Average interest rate	6.32 %	7.07 %	1.70 %	—	—	—		

	January 29, 2022							
	Expected Year of Maturity							
	2022	2023	2024	2025	2026	Thereafter	Total	Fair Value
Debt								
Fixed rate	\$ (416)	\$ (1,107)	\$ (5)	\$ (3)	\$ (1,387)	\$ (8,688)	\$ (11,606)	\$ (13,050)
Average interest rate	4.38 %	4.50 %	1.51 %	3.53 %	4.27 %	4.46 %		
Variable rate	\$ (35)	\$ (23)	\$ —	\$ (81)	\$ —	\$ —	\$ (139)	\$ (139)
Average interest rate	1.86 %	2.61 %	—	0.12 %	—	—		

Based on our year-end 2022 variable rate debt levels, a 10 percent change in interest rates would be immaterial. See Note 6 to the Consolidated Financial Statements for further discussion of derivatives and hedging policies.

Commodity Price Risk

We are subject to commodity price risk generated by our purchases of meat, seafood and dairy products, among other food items. We purchase, manufacture and sell various commodity related food products and risk arises from the price volatility of these commodities. The price and availability of these commodities directly impacts our results of operations. To help manage or minimize the effect of commodity price risk exposure on our operations, we use a combination of pricing features embedded within supply contracts, such as fixed-price and price-to-be-fixed contracts, and have the ability to increase or decrease retail prices to our customers as commodity prices change.

We are exposed to changes in the prices of diesel and unleaded fuel. The majority of our fuel contracts utilize index-based pricing formulas plus or minus a fixed locational/supplier differential. We expect to take delivery of these commitments in the normal course of business, and, as a result, these contracts qualify as normal purchases. While many of the indices are aligned, each index may fluctuate at a different pace, driving variability in the prices paid for fuel. Because of this, our operating results may be affected should the market price of fuel suddenly change by a significant amount, which can affect our operating results either positively or negatively in the short-term.

We have entered into fixed price contracts to purchase electricity and natural gas for a portion of our energy needs. We expect to take delivery of these commitments in the normal course of business, and, as a result, these contracts qualify as normal purchases.

As of January 28, 2023 and January 29, 2022, we had no commodity derivative contracts outstanding.

Equity Investment Risk

We are exposed to market price volatility for our investment in Ocado Group plc (“Ocado”), which is measured at fair value through net earnings. Fair value adjustments flow through “(Loss) gain on investments” in our Consolidated Statements of Operations. The change in fair value of this investment resulted in an unrealized (loss) gain on investments of (\$586) million in 2022, (\$821) million in 2021 and \$1.0 billion in 2020. As of January 28, 2023, the value of our investment in Ocado was \$401 million. As of January 28, 2023, a 10% change in the fair value of this investment would be approximately \$40 million. For additional details on this investment, see Note 7 to the Consolidated Financial Statements.

Company-Sponsored Benefit Plans

We sponsor defined benefit pension plans and post-retirement healthcare plans for certain eligible employees. Changes in interest rates affect our liabilities associated with these retirement plans, as well as the amount of expense recognized for these retirement plans. Increased interest rates could result in a lower fair value of plan assets and increased pension expense in the following years. The target plan asset allocations are established based on our LDI strategy. An LDI strategy focuses on maintaining a close to fully-funded status over the long-term with minimal funded status risk. This is achieved by investing more of the plan assets in fixed income instruments to more closely match the duration of the plan liability. As of January 28, 2023, our defined benefit pension plans had total investment assets of \$2.5 billion. Declines in the fair value of plan assets could diminish the funded status of our defined benefit pension plans and potentially increase our requirement to make contributions to these plans. For additional details, see Note 14 to the Consolidated Financial Statements.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA.

**Consolidated Financial Statements of The Kroger Co.
For the Fiscal Year Ended January 28, 2023**

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Report of Independent Registered Public Accounting Firm

To the Board of Directors and Shareholders of The Kroger Co.

Opinions on the Financial Statements and Internal Control over Financial Reporting

We have audited the accompanying consolidated balance sheets of The Kroger Co. and its subsidiaries (the "Company") as of January 28, 2023 and January 29, 2022, and the related consolidated statements of operations, of comprehensive income, of changes in shareholders' equity and of cash flows for each of the three years in the period ended January 28, 2023, including the related notes (collectively referred to as the "consolidated financial statements"). We also have audited the Company's internal control over financial reporting as of January 28, 2023, based on criteria established in *Internal Control - Integrated Framework* (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the Company as of January 28, 2023 and January 29, 2022, and the results of its operations and its cash flows for each of the three years in the period ended January 28, 2023 in conformity with accounting principles generally accepted in the United States of America. Also in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of January 28, 2023, based on criteria established in *Internal Control - Integrated Framework* (2013) issued by the COSO.

Basis for Opinions

The Company's management is responsible for these consolidated financial statements, for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting, included in Management's Report on Internal Control over Financial Reporting appearing under Item 9A. Our responsibility is to express opinions on the Company's consolidated financial statements and on the Company's internal control over financial reporting based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud, and whether effective internal control over financial reporting was maintained in all material respects.

Our audits of the consolidated financial statements included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

Definition and Limitations of Internal Control over Financial Reporting

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Critical Audit Matters

The critical audit matter communicated below is a matter arising from the current period audit of the consolidated financial statements that was communicated or required to be communicated to the audit committee and that (i) relates to accounts or disclosures that are material to the consolidated financial statements and (ii) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the accounts or disclosures to which it relates.

Goodwill Impairment Assessment – Kroger Specialty Pharmacy (“KSP”) Reporting Unit

As described in Notes 1 and 2 to the consolidated financial statements, the Company's consolidated goodwill balance was \$2.9 billion as of January 28, 2023 and the goodwill associated with the KSP reporting unit was \$243 million. Management reviews goodwill annually for impairment in the fourth quarter of each year, and also upon the occurrence of triggering events. The fair value of a reporting unit is compared to its carrying value for purposes of identifying potential impairment. Goodwill impairment is recognized for any excess of the reporting unit's carrying value over its fair value, not to exceed the total amount of goodwill allocated to the reporting unit. The fair value of the Company's KSP reporting unit was estimated using multiple valuation techniques, a discounted cash flow model (income approach), a market multiple model and comparable mergers and acquisition model (market approaches), with each method weighted in the calculation. The income approach relies on management's estimates of revenue growth rates, margin assumptions, and discount rate to estimate future cash flows. The market approaches require the determination of an appropriate peer group, which is utilized to derive estimated fair values based on selected market multiples.

The principal considerations for our determination that performing procedures relating to the goodwill impairment assessment of the KSP reporting unit is a critical audit matter are (i) the significant judgment by management when developing the fair value measurement of the reporting unit; (ii) the high degree of auditor judgment, subjectivity, and effort in performing procedures to evaluate management's cash flow projections and significant assumptions related to revenue growth rates, margin assumptions, discount rate, peer group determination, and market multiple selection; and (iii) the audit effort involved the use of professionals with specialized skill and knowledge.

Addressing the matter involved performing procedures and evaluating audit evidence in connection with forming our overall opinion on the consolidated financial statements. These procedures included testing the effectiveness of controls relating to management's goodwill impairment assessment, including controls over the valuation of the Company's KSP reporting unit. These procedures also included, among others, testing management's process for developing the fair value estimate, evaluating the appropriateness of the income and market approach models, testing the completeness, accuracy, and relevance of the underlying data used in the models and evaluating the significant assumptions used by management related to the revenue growth rates, margin assumptions, discount rate, peer group determination, and market multiple selection.

Evaluating management's assumptions relating to revenue growth rates and margin assumptions involved evaluating whether the assumptions used by management were reasonable considering (i) the current and past performance of the reporting unit, (ii) the consistency with external market and industry data, and (iii) whether these assumptions were consistent with evidence obtained in other areas of the audit. Evaluating the Company's peer group determinations included evaluating the appropriateness of the identified peer companies. Professionals with specialized skill and knowledge were used to assist in the evaluation of the Company's discounted cash flow and market models, and certain significant assumptions related to the discount rate, peer group determination, and market multiples.

/s/ PricewaterhouseCoopers LLP

Cincinnati, Ohio

March 28, 2023

We have served as the Company's auditor since 1929.

THE KROGER CO.
CONSOLIDATED BALANCE SHEETS

(In millions, except par amounts)	<u>January 28, 2023</u>	<u>January 29, 2022</u>
ASSETS		
Current assets		
Cash and temporary cash investments	\$ 1,015	\$ 1,821
Store deposits in-transit	1,127	1,082
Receivables	2,234	1,828
FIFO inventory	9,756	8,353
LIFO reserve	(2,196)	(1,570)
Prepaid and other current assets	734	660
Total current assets	<u>12,670</u>	<u>12,174</u>
Property, plant and equipment, net	24,726	23,789
Operating lease assets	6,662	6,695
Intangibles, net	899	942
Goodwill	2,916	3,076
Other assets	<u>1,750</u>	<u>2,410</u>
Total Assets	<u>\$ 49,623</u>	<u>\$ 49,086</u>
LIABILITIES		
Current liabilities		
Current portion of long-term debt including obligations under finance leases	\$ 1,310	\$ 555
Current portion of operating lease liabilities	662	650
Trade accounts payable	7,119	7,117
Accrued salaries and wages	1,746	1,736
Other current liabilities	6,401	6,265
Total current liabilities	<u>17,238</u>	<u>16,323</u>
Long-term debt including obligations under finance leases	12,068	12,809
Noncurrent operating lease liabilities	6,372	6,426
Deferred income taxes	1,672	1,562
Pension and postretirement benefit obligations	436	478
Other long-term liabilities	<u>1,823</u>	<u>2,059</u>
Total Liabilities	<u>39,609</u>	<u>39,657</u>
Commitments and contingencies see Note 12		
SHAREOWNERS' EQUITY		
Preferred shares, \$100 par per share, 5 shares authorized and unissued	—	—
Common shares, \$1 par per share, 2,000 shares authorized; 1,918 shares issued in 2022 and 2021	1,918	1,918
Additional paid-in capital	3,805	3,657
Accumulated other comprehensive loss	(632)	(467)
Accumulated earnings	25,601	24,066
Common shares in treasury, at cost, 1,202 shares in 2022 and 1,191 shares in 2021	<u>(20,650)</u>	<u>(19,722)</u>
Total Shareowners' Equity - The Kroger Co.	10,042	9,452
Noncontrolling interests	<u>(28)</u>	<u>(23)</u>
Total Equity	<u>10,014</u>	<u>9,429</u>
Total Liabilities and Equity	<u>\$ 49,623</u>	<u>\$ 49,086</u>

The accompanying notes are an integral part of the consolidated financial statements.

THE KROGER CO.
CONSOLIDATED STATEMENTS OF OPERATIONS

Years Ended January 28, 2023, January 29, 2022 and January 30, 2021

(In millions, except per share amounts)	2022 (52 weeks)	2021 (52 weeks)	2020 (52 weeks)
Sales	\$ 148,258	\$ 137,888	\$ 132,498
Operating expenses			
Merchandise costs, including advertising, warehousing, and transportation, excluding items shown separately below	116,480	107,539	101,597
Operating, general and administrative	23,848	23,203	24,500
Rent	839	845	874
Depreciation and amortization	<u>2,965</u>	<u>2,824</u>	<u>2,747</u>
Operating profit	4,126	3,477	2,780
Other income (expense)			
Interest expense	(535)	(571)	(544)
Non-service component of company-sponsored pension plan benefits (costs)	39	(34)	29
(Loss) gain on investments	<u>(728)</u>	<u>(821)</u>	<u>1,105</u>
Net earnings before income tax expense	2,902	2,051	3,370
Income tax expense	<u>653</u>	<u>385</u>	<u>782</u>
Net earnings including noncontrolling interests	2,249	1,666	2,588
Net income attributable to noncontrolling interests	<u>5</u>	<u>11</u>	<u>3</u>
Net earnings attributable to The Kroger Co.	<u><u>\$ 2,244</u></u>	<u><u>\$ 1,655</u></u>	<u><u>\$ 2,585</u></u>
Net earnings attributable to The Kroger Co. per basic common share	<u><u>\$ 3.10</u></u>	<u><u>\$ 2.20</u></u>	<u><u>\$ 3.31</u></u>
Average number of common shares used in basic calculation	718	744	773
Net earnings attributable to The Kroger Co. per diluted common share	<u><u>\$ 3.06</u></u>	<u><u>\$ 2.17</u></u>	<u><u>\$ 3.27</u></u>
Average number of common shares used in diluted calculation	727	754	781

The accompanying notes are an integral part of the consolidated financial statements.

THE KROGER CO.
CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME

Years Ended January 28, 2023, January 29, 2022 and January 30, 2021

(In millions)	2022 (52 weeks)	2021 (52 weeks)	2020 (52 weeks)
Net earnings including noncontrolling interests	\$ 2,249	\$ 1,666	\$ 2,588
Other comprehensive (loss) income			
Change in pension and other postretirement defined benefit plans, net of income tax ⁽¹⁾	(83)	156	22
Unrealized gains and losses on cash flow hedging activities, net of income tax ⁽²⁾	(89)	—	(14)
Amortization of unrealized gains and losses on cash flow hedging activities, net of income tax ⁽³⁾	7	7	2
Total other comprehensive (loss) income	(165)	163	10
Comprehensive income	2,084	1,829	2,598
Comprehensive income attributable to noncontrolling interests	5	11	3
Comprehensive income attributable to The Kroger Co.	<u>\$ 2,079</u>	<u>\$ 1,818</u>	<u>\$ 2,595</u>

(1) Amount is net of tax (benefit) expense of (\$26) in 2022, \$48 in 2021 and \$7 in 2020.

(2) Amount is net of tax benefit of (\$27) in 2022 and (\$8) in 2020.

(3) Amount is net of tax expense of \$2 in 2022, \$3 in 2021 and \$2 in 2020.

The accompanying notes are an integral part of the consolidated financial statements.

THE KROGER CO.
CONSOLIDATED STATEMENTS OF CASH FLOWS

Years Ended January 28, 2023, January 29, 2022 and January 30, 2021

(In millions)	2022 (52 weeks)	2021 (52 weeks)	2020 (52 weeks)
Cash Flows from Operating Activities:			
Net earnings including noncontrolling interests	\$ 2,249	\$ 1,666	\$ 2,588
Adjustments to reconcile net earnings including noncontrolling interests to net cash provided by operating activities:			
Depreciation and amortization	2,965	2,824	2,747
Asset impairment charges	68	64	70
Goodwill and fixed asset impairment charges related to Vitacost.com	164	—	—
Operating lease asset amortization	614	605	626
LIFO charge (credit)	626	197	(7)
Share-based employee compensation	190	203	185
Company-sponsored pension plans (benefit) expense	(26)	50	(9)
Deferred income taxes	161	(31)	73
Gain on the sale of assets	(40)	(44)	(59)
Loss (gain) on investments	728	821	(1,105)
Other	(8)	64	165
Changes in operating assets and liabilities:			
Store deposits in-transit	(45)	13	83
Receivables	(222)	(61)	(90)
Inventories	(1,370)	80	7
Prepaid and other current assets	(36)	232	(342)
Trade accounts payable	3	438	330
Accrued expenses	(126)	331	1,382
Income taxes receivable and payable	(190)	16	24
Operating lease liabilities	(622)	(618)	(552)
Other	(585)	(660)	699
Net cash provided by operating activities	<u>4,498</u>	<u>6,190</u>	<u>6,815</u>
Cash Flows from Investing Activities:			
Payments for property and equipment, including payments for lease buyouts	(3,078)	(2,614)	(2,865)
Proceeds from sale of assets	78	153	165
Other	(15)	(150)	(114)
Net cash used by investing activities	<u>(3,015)</u>	<u>(2,611)</u>	<u>(2,814)</u>
Cash Flows from Financing Activities:			
Proceeds from issuance of long-term debt	—	56	1,049
Payments on long-term debt including obligations under finance leases	(552)	(1,442)	(747)
Net payments on commercial paper	—	—	(1,150)
Dividends paid	(682)	(589)	(534)
Financing fees paid	(84)	(5)	(9)
Proceeds from issuance of capital stock	134	172	127
Treasury stock purchases	(993)	(1,647)	(1,324)
Proceeds from financing arrangement	—	166	—
Other	(112)	(156)	(125)
Net cash used by financing activities	<u>(2,289)</u>	<u>(3,445)</u>	<u>(2,713)</u>
Net (decrease) increase in cash and temporary cash investments	(806)	134	1,288
Cash and temporary cash investments:			
Beginning of year	<u>1,821</u>	<u>1,687</u>	<u>399</u>
End of year	<u>\$ 1,015</u>	<u>\$ 1,821</u>	<u>\$ 1,687</u>
Reconciliation of capital investments:			
Payments for property and equipment, including payments for lease buyouts	\$ (3,078)	\$ (2,614)	\$ (2,865)
Payments for lease buyouts	21	—	58
Changes in construction-in-progress payables	(281)	(542)	(359)
Total capital investments, excluding lease buyouts	<u>\$ (3,338)</u>	<u>\$ (3,156)</u>	<u>\$ (3,166)</u>
Disclosure of cash flow information:			
Cash paid during the year for interest	\$ 545	\$ 607	\$ 564
Cash paid during the year for income taxes	\$ 698	\$ 513	\$ 659

The accompanying notes are an integral part of the consolidated financial statements

THE KROGER CO.
CONSOLIDATED STATEMENT OF CHANGES IN SHAREHOLDERS' EQUITY

Years Ended January 28, 2023, January 29, 2022 and January 30, 2021

				Common Stock			Additional Paid-In Capital			Treasury Stock			Accumulated Other Comprehensive Income (Loss)			Accumulated Earnings			Noncontrolling Interest			Total			
	Shares	Amount		Shares	Amount		Shares	Amount		Shares	Amount		Shares	Amount		Shares	Amount		Shares	Amount		Shares	Amount		
(In millions, except per share amounts)																									
Balances at February 1, 2020	1,918	\$ 1,918		3,337	\$ 3,337		1,130	\$ (16,991)		(640)	\$ 20,978		(29)	\$ 8,573											
Issuance of common stock:																									
Stock options exercised	—	—	—	(134)	(3)	71	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	127	
Restricted stock issued	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	(63)	
Treasury stock activity:																									
Treasury stock purchases, at cost	—	—	—	—	—	—	36	(1,196)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	(1,196)	
Stock options exchanged	—	—	—	—	—	4	(128)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	(128)	
Share-based employee compensation	—	—	—	—	185	—	—	—	—	—	—	—	10	—	—	—	—	—	—	—	—	—	—	185	
Other comprehensive income net of tax of \$1	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	10	
Other	—	—	—	—	73	—	(74)	—	—	—	—	—	(545)	—	—	—	—	—	—	—	—	—	—	(1)	
Cash dividends declared (\$0.70 per common share)	—	—	—	—	—	—	—	—	—	—	—	—	2,585	—	—	—	—	—	—	—	—	—	—	(545)	
Net earnings including non-controlling interests	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	2,588	
Balances at January 30, 2021	1,918	\$ 1,918		3,461		1,160	\$ (18,191)	—	(630)	\$ 23,018	—	(26)	\$ 9,550												
Issuance of common stock:																									
Stock options exercised	—	—	—	(137)	(3)	73	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	172	
Restricted stock issued	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	(64)	
Treasury stock activity:																									
Treasury stock purchases, at cost	—	—	—	—	—	—	35	(1,422)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	(1,422)	
Stock options exchanged	—	—	—	—	—	6	(225)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	(225)	
Share-based employee compensation	—	—	—	—	203	—	—	—	—	—	—	—	163	—	—	—	—	—	—	—	—	—	—	203	
Other comprehensive income net of tax of \$51	—	—	—	—	—	—	—	—	—	—	—	—	(129)	—	—	—	—	—	—	—	—	—	—	163	
Other	—	—	—	—	—	—	—	—	—	—	—	—	(607)	—	—	—	—	—	—	—	—	—	—	(607)	
Cash dividends declared (\$0.81 per common share)	—	—	—	—	—	—	—	—	—	—	—	—	1,655	—	—	—	—	—	—	—	—	—	—	1,666	
Net earnings including non-controlling interests	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	
Balances at January 29, 2022	1,918	\$ 1,918		3,657		1,191	\$ (19,722)	—	(467)	\$ 24,066	—	(23)	\$ 9,429												
Issuance of common stock:																									
Stock options exercised	—	—	—	(173)	(4)	62	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	134	
Restricted stock issued	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	(111)	
Treasury stock activity:																									
Treasury stock purchases, at cost	—	—	—	—	—	16	(821)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	(821)	
Stock options exchanged	—	—	—	—	—	3	(172)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	(172)	
Share-based employee compensation	—	—	—	—	190	—	—	—	—	—	—	—	(165)	—	—	—	—	—	—	—	—	—	—	190	
Other comprehensive loss net of tax of \$(51)	—	—	—	—	—	—	—	—	—	—	—	—	(131)	—	—	—	—	—	—	—	—	—	—	(165)	
Other	—	—	—	—	131	—	—	—	—	—	—	—	(709)	—	—	—	—	—	—	—	—	—	—	(10)	
Cash dividends declared (\$0.99 per common share)	—	—	—	—	—	—	—	—	—	—	—	—	2,244	—	—	—	—	—	—	—	—	—	—	(709)	
Net earnings including non-controlling interests	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	2,249	
Balances at January 28, 2023	1,918	\$ 1,918		3,805		1,202	\$ (20,650)	—	(632)	\$ 25,601	—	(28)	\$ 10,014												

The accompanying notes are an integral part of the consolidated financial statements.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

All amounts in the Notes to Consolidated Financial Statements are in millions except per share amounts.

1. ACCOUNTING POLICIES

The following is a summary of the significant accounting policies followed in preparing these financial statements.

Description of Business, Basis of Presentation and Principles of Consolidation

The Kroger Co. (the “Company”) was founded in 1883 and incorporated in 1902. The Company is a food and drug retailer that operates 2,719 supermarkets, 2,252 pharmacies and 1,637 fuel centers across 35 states while also operating online through a digital ecosystem to offer customers an omnichannel shopping experience. The Company also manufactures and processes food for sale by its supermarkets and online. The accompanying financial statements include the consolidated accounts of the Company, its wholly-owned subsidiaries and other consolidated entities. Intercompany transactions and balances have been eliminated.

Fiscal Year

The Company’s fiscal year ends on the Saturday nearest January 31. The last three fiscal years consist of the 52-week periods ended January 28, 2023, January 29, 2022 and January 30, 2021.

Pervasiveness of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles (“GAAP”) requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities. Disclosure of contingent assets and liabilities as of the date of the consolidated financial statements and the reported amounts of consolidated revenues and expenses during the reporting period is also required. Actual results could differ from those estimates.

Cash, Temporary Cash Investments and Book Overdrafts

Cash and temporary cash investments represent store cash and short-term investments with original maturities of less than three months. Book overdrafts are included in “Trade accounts payable” and “Accrued salaries and wages” in the Consolidated Balance Sheets.

Deposits In-Transit

Deposits in-transit generally represent funds deposited to the Company’s bank accounts at the end of the year related to sales, a majority of which were paid for with debit cards, credit cards and checks, to which the Company does not have immediate access but settle within a few days of the sales transaction.

Inventories

Inventories are stated at the lower of cost (principally on a last-in, first-out “LIFO” basis) or market. In total, approximately 89% of inventories in 2022 and 91% of inventories in 2021 were valued using the LIFO method. The remaining inventories, including substantially all fuel inventories, are stated at the lower of cost (on a FIFO basis) or net realizable value. Replacement cost was higher than the carrying amount by \$2,196 at January 28, 2023 and \$1,570 at January 29, 2022. The Company follows the Link-Chain, Dollar-Value LIFO method for purposes of calculating its LIFO charge or credit. During 2020, the Company had a LIFO liquidation primarily related to pharmacy inventory. The liquidated inventory was carried at lower costs prevailing in prior years as compared with current costs. The effect of this reduction in inventory decreased “Merchandise costs” by approximately \$76, \$58 net of tax.

The item-cost method of accounting to determine inventory cost before the LIFO adjustment is followed for substantially all store inventories at the Company's supermarket divisions. This method involves counting each item in inventory, assigning costs to each of these items based on the actual purchase costs (net of vendor allowances and cash discounts) of each item and recording the cost of items sold. The item-cost method of accounting allows for more accurate reporting of periodic inventory balances and enables management to more precisely manage inventory. In addition, substantially all of the Company's inventory consists of finished goods and is recorded at actual purchase costs (net of vendor allowances and cash discounts).

The Company evaluates inventory shortages throughout the year based on actual physical counts in its facilities. Allowances for inventory shortages are recorded based on the results of these counts to provide for estimated shortages as of the financial statement date.

Property, Plant and Equipment

Property, plant and equipment are recorded at cost or, in the case of assets acquired in a business combination, at fair value. Depreciation and amortization expense, which includes the depreciation of assets recorded under finance leases, is computed principally using the straight-line method over the estimated useful lives of individual assets. Buildings and land improvements are depreciated based on lives varying from 10 to 40 years. All new purchases of store equipment are assigned lives varying from three to nine years. Leasehold improvements are amortized over the shorter of the lease term to which they relate, which generally varies from four to 25 years, or the useful life of the asset. Food production plant, fulfillment center and distribution center equipment is depreciated over lives varying from three to 15 years. Information technology assets are generally depreciated over three to five years. Depreciation and amortization expense was \$2,965 in 2022, \$2,824 in 2021 and \$2,747 in 2020.

Interest costs on significant projects constructed for the Company's own use are capitalized as part of the costs of the newly constructed facilities. Upon retirement or disposal of assets, the cost and related accumulated depreciation and amortization are removed from the balance sheet and any gain or loss is reflected in net earnings. Refer to Note 3 for further information regarding the Company's property, plant and equipment.

Leases

The Company leases certain store real estate, warehouses, distribution centers, fulfillment centers, office space and equipment. The Company determines if an arrangement is a lease at inception. Finance and operating lease assets and liabilities are recognized at the lease commencement date. Finance and operating lease liabilities represent the present value of minimum lease payments not yet paid. Operating lease assets represent the right to use an underlying asset and are based upon the operating lease liabilities adjusted for prepayments, lease incentives and impairment, if any. To determine the present value of lease payments, the Company estimates an incremental borrowing rate which represents the rate used for a secured borrowing of a similar term as the lease.

Lease terms generally range from 10 to 20 years with options to renew for varying terms at the Company's sole discretion. The lease term includes the initial contractual term as well as any options to extend the lease when it is reasonably certain that the Company will exercise that option. Leases with an initial term of 12 months or less are not recorded on the balance sheet. Certain leases include escalation clauses or payment of executory costs such as property taxes, utilities or insurance and maintenance. Operating lease payments are charged on a straight-line basis to rent expense over the lease term and finance lease payments are charged to interest expense and depreciation and amortization expense over the lease term. Assets under finance leases are amortized in accordance with the Company's normal depreciation policy for owned assets or over the lease term, if shorter. The Company's lease agreements do not contain any residual value guarantees or material restrictive covenants. For additional information on leases, see Note 9 to the Consolidated Financial Statements.

Goodwill

The Company reviews goodwill for impairment during the fourth quarter of each year, or earlier upon the occurrence of a triggering event. The Company performs reviews of each of its operating divisions and other consolidated entities (collectively, “reporting units”) that have goodwill balances. Generally, fair value is determined using a market multiple model, or discounted projected future cash flows, and is compared to the carrying value of a reporting unit for purposes of identifying potential impairment. Projected future cash flows are based on management’s knowledge of the current operating environment and expectations for the future. Goodwill impairment is recognized for any excess of the reporting unit’s carrying value over its fair value, not to exceed the total amount of goodwill allocated to the reporting unit. Results of the goodwill impairment reviews performed during 2022, 2021 and 2020 are summarized in Note 2.

Impairment of Long-Lived Assets

The Company monitors the carrying value of long-lived assets for potential impairment each quarter based on whether certain triggering events have occurred. These events include current period losses combined with a history of losses or a projection of continuing losses or a significant decrease in the market value of an asset. When a triggering event occurs, an impairment calculation is performed, comparing projected undiscounted future cash flows, utilizing current cash flow information and expected growth rates related to specific stores, to the carrying value for those stores. If the Company identifies impairment for long-lived assets to be held and used, the Company compares the assets’ current carrying value to the assets’ fair value. Fair value is based on current market values or discounted future cash flows. The Company records impairment when the carrying value exceeds fair market value. With respect to owned property and equipment held for disposal, the value of the property and equipment is adjusted to reflect recoverable values based on previous efforts to dispose of similar assets and current economic conditions. Impairment is recognized for the excess of the carrying value over the estimated fair market value, reduced by estimated direct costs of disposal. The Company recorded asset impairments totaling \$68, \$64 and \$70 in 2022, 2021 and 2020, respectively. Costs to reduce the carrying value of long-lived assets for each of the years presented have been included in the Consolidated Statements of Operations as Operating, general and administrative (“OG&A”) expense.

Accounts Payable Financing Arrangement

The Company has an agreement with a third party to provide an accounts payable tracking system which facilitates participating suppliers’ ability to finance payment obligations from the Company with designated third-party financial institutions. Participating suppliers may, at their sole discretion, make offers to finance one or more payment obligations of the Company prior to their scheduled due dates at a discounted price to participating financial institutions. The Company’s obligations to its suppliers, including amounts due and scheduled payment dates, are not affected by suppliers’ decisions to finance amounts under this arrangement. As of January 28, 2023, the Company had \$65 and \$249 in “Other current liabilities” and “Trade accounts payable,” respectively, associated with financing arrangements. As of January 29, 2022, the Company had \$59 and \$236 in “Other current liabilities” and “Trade accounts payable,” respectively, associated with financing arrangements.

Contingent Consideration

The Company’s Home Chef business combination involves potential payment of future consideration that is contingent upon the achievement of certain performance milestones. The Company recorded contingent consideration at fair value at the date of acquisition based on the consideration expected to be transferred, estimated as the probability-weighted future cash flows, discounted back to present value using a discount rate determined in accordance with accepted valuation methods. The liability for contingent consideration is remeasured to fair value at each reporting period using Level 3 inputs, and the change in fair value, including accretion for the passage of time, is recognized in earnings until the contingency is resolved. In 2022, 2021 and 2020, adjustments to increase the contingent consideration liability as of year-end were recorded for \$20, \$66 and \$189, respectively, in OG&A expense. During the first quarter of 2023, the Company will make the final contingent consideration payment, which is based on the fair value of the outstanding year-end 2022 liability.

Store Closing Costs

The Company regularly evaluates the performance of its stores and periodically closes those stores that are underperforming. Related liabilities arise, such as severance, contractual obligations and other accruals associated with store closings. The Company records a liability for costs associated with an exit or disposal activity when the liability is incurred, usually in the period the store closes. Adjustments to closed store liabilities primarily relate to actual exit costs differing from original estimates. Adjustments are made for changes in estimates in the period in which the change becomes known.

Owned stores held for disposal are reduced to their estimated net realizable value. Costs to reduce the carrying values of property, plant, equipment and operating lease assets are accounted for in accordance with the Company's policy on impairment of long-lived assets. Inventory write-downs, if any, in connection with store closings, are classified in the Consolidated Statements of Operations as "Merchandise costs". Costs to transfer inventory and equipment from closed stores are expensed as incurred.

Interest Rate Risk Management

The Company uses derivative instruments primarily to manage its exposure to changes in interest rates. The Company's current program relative to interest rate protection and the methods by which the Company accounts for its derivative instruments are described in Note 6.

Benefit Plans and Multi-Employer Pension Plans

The Company recognizes the funded status of its retirement plans on the Consolidated Balance Sheets. Actuarial gains or losses, prior service costs or credits and transition obligations that have not yet been recognized as part of net periodic benefit cost are required to be recorded as a component of Accumulated Other Comprehensive Income ("AOCI"). The Company has elected to measure defined benefit plan assets and obligations as of January 31, which is the month-end that is closest to its fiscal year-ends, which were January 28, 2023 for fiscal 2022 and January 29, 2022 for fiscal 2021.

The determination of the obligation and expense for company-sponsored pension plans and other post-retirement benefits is dependent on the selection of assumptions used by actuaries and the Company in calculating those amounts. Those assumptions are described in Note 14 and include, among others, the discount rate, the expected long-term rate of return on plan assets, mortality and the rates of increase in compensation and health care costs. Actual results that differ from the assumptions are accumulated and amortized over future periods and, therefore, generally affect the recognized expense and recorded obligation in future periods. While the Company believes that the assumptions are appropriate, significant differences in actual experience or significant changes in assumptions may materially affect the pension and other post-retirement obligations and future expense.

The Company also participates in various multi-employer plans for substantially all union employees. Pension expense for these plans is recognized as contributions are funded or when commitments are probable and reasonably estimable, in accordance with GAAP. Refer to Note 15 for additional information regarding the Company's participation in these various multi-employer pension plans.

The Company administers and makes contributions to the employee 401(k) retirement savings accounts. Contributions to the employee 401(k) retirement savings accounts are expensed when contributed or over the service period in the case of automatic contributions. Refer to Note 14 for additional information regarding the Company's benefit plans.

Share Based Compensation

The Company recognizes compensation expense for all share-based payments granted under fair value recognition provisions. The Company recognizes share-based compensation expense, net of an estimated forfeiture rate, over the requisite service period of the award based on the fair value at the date of the grant. The Company grants options for common shares (“stock options”) to employees under various plans at an option price equal to the fair market value of the stock option at the date of grant. Stock options typically expire 10 years from the date of grant. Stock options vest between one and four years from the date of grant. In addition to stock options, the Company awards restricted stock to employees and incentive shares to nonemployee directors under various plans. The restrictions on these restricted stock awards generally lapse between one and four years from the date of the awards. The Company determines the fair value for restricted stock awards in an amount equal to the fair market value of the underlying shares on the grant date of the award.

Deferred Income Taxes

Deferred income taxes are recorded to reflect the tax consequences of differences between the tax basis of assets and liabilities and their financial reporting basis. Refer to Note 4 for the types of differences that give rise to significant portions of deferred income tax assets and liabilities.

Uncertain Tax Positions

The Company reviews the tax positions taken or expected to be taken on tax returns to determine whether and to what extent a benefit can be recognized in its consolidated financial statements. Refer to Note 4 for the amount of unrecognized tax benefits and other related disclosures related to uncertain tax positions.

Various taxing authorities periodically audit the Company’s income tax returns. These audits include questions regarding the Company’s tax filing positions, including the timing and amount of deductions and the allocation of income to various tax jurisdictions. In evaluating the exposures connected with these various tax filing positions, including state and local taxes, the Company records allowances for probable exposures. A number of years may elapse before a particular matter, for which an allowance has been established, is audited and fully resolved. As of January 28, 2023, the years ended February 1, 2020 and forward remain open for review for federal income tax purposes.

The assessment of the Company’s tax position relies on the judgment of management to estimate the exposures associated with the Company’s various filing positions.

Self-Insurance Costs

The Company is primarily self-insured for costs related to workers’ compensation and general liability claims. Liabilities are actuarially determined and are recognized based on claims filed and an estimate of claims incurred but not reported. The liabilities for workers’ compensation claims are accounted for on a present value basis. The Company has purchased stop-loss coverage to limit its exposure to any significant exposure on a per claim basis. The Company is insured for covered costs in excess of these per claim limits.

The following table summarizes the changes in the Company’s self-insurance liability through January 28, 2023:

	2022	2021	2020
Beginning balance	\$ 721	\$ 731	\$ 689
Expense	227	226	262
Claim payments	(236)	(236)	(220)
Ending balance	712	721	731
Less: Current portion	(236)	(236)	(220)
Long-term portion	<u>\$ 476</u>	<u>\$ 485</u>	<u>\$ 511</u>

The current portion of the self-insured liability is included in “Other current liabilities,” and the long-term portion is included in “Other long-term liabilities” in the Consolidated Balance Sheets.

The Company maintains surety bonds related to self-insured workers' compensation claims. These bonds are required by most states in which the Company is self-insured for workers' compensation and are placed with third-party insurance providers to insure payment of the Company's obligations in the event the Company is unable to meet its claim payment obligations up to its self-insured retention levels. These bonds do not represent liabilities of the Company, as the Company has recorded reserves for the claim costs.

The Company also maintains insurance coverages for certain risks, including cyber exposure and property-related losses. The Company's insurance coverage begins for these exposures ranging from \$25 to \$30.

Revenue Recognition

Sales

The Company recognizes revenues from the retail sale of products, net of sales taxes, at the point of sale. Pharmacy sales are recorded when the product is provided to the customer. Digital channel originated sales are recognized either upon pickup in store or upon delivery to the customer. Amounts billed to a customer related to shipping and delivery represent revenues earned for the goods provided and are classified as sales. When shipping is discounted, it is recorded as an adjustment to sales. Discounts provided to customers by the Company at the time of sale, including those provided in connection with loyalty cards, are recognized as a reduction in sales as the products are sold. Discounts provided by vendors, usually in the form of coupons, are not recognized as a reduction in sales provided the coupons are redeemable at any retailer that accepts coupons. The Company records a receivable from the vendor for the difference in sales price and cash received. For merchandise sold in one of the Company's stores or online, tender is accepted at the point of sale. The Company acts as principal in certain vendor arrangements where the purchase and sale of inventory are virtually simultaneous. The Company records revenue and related costs on a gross basis for these arrangements. For pharmacy sales, collection of third-party receivables is typically expected within three months or less from the time of purchase. The third-party receivables from pharmacy sales are recorded in "Receivables" in the Company's Consolidated Balance Sheets and were \$867 as of January 28, 2023 and \$774 as of January 29, 2022.

Gift Cards and Gift Certificates

The Company does not recognize revenue when it sells its own gift cards and gift certificates (collectively "gift cards"). Rather, it records a deferred revenue liability equal to the amount received. A sale is then recognized when the gift cards are redeemed to purchase the Company's products. The Company's gift cards do not expire. While gift cards are generally redeemed within 12 months, some are never fully redeemed. The Company recognizes gift card breakage under the proportional method, where recognition of breakage income is based upon the historical run-off rate of unredeemed gift cards. The Company's gift card deferred revenue liability was \$200 as of January 28, 2023 and \$185 as of January 29, 2022.

Disaggregated Revenues

The following table presents sales revenue by type of product for the year-ended January 28, 2023, January 29, 2022, and January 30, 2021:

	2022		2021		2020	
	Amount	% of total	Amount	% of total	Amount	% of total
Non Perishable ⁽¹⁾	\$ 74,121	50.0 %	\$ 69,648	50.6 %	\$ 71,434	53.9 %
Fresh ⁽²⁾	35,433	23.9 %	33,972	24.6 %	33,449	25.2 %
Supermarket Fuel	18,632	12.6 %	14,678	10.6 %	9,486	7.2 %
Pharmacy	13,377	9.0 %	12,401	9.0 %	11,388	8.6 %
Other ⁽³⁾	6,695	4.5 %	7,189	5.2 %	6,741	5.1 %
Total Sales	\$ 148,258	100 %	\$ 137,888	100 %	\$ 132,498	100 %

(1) Consists primarily of grocery, general merchandise, health and beauty care and natural foods.

(2) Consists primarily of produce, floral, meat, seafood, deli, bakery and fresh prepared.

(3) Consists primarily of sales related to food production plants to outside parties, data analytic services, third-party media revenue, other consolidated entities, specialty pharmacy, in-store health clinics, digital coupon services and other online sales not included in the categories above. The decrease in 2022, compared to 2021, is primarily due to discontinued patient therapies at Kroger Specialty Pharmacy.

Merchandise Costs

The “Merchandise costs” line item of the Consolidated Statements of Operations includes product costs, net of discounts and allowances; advertising costs (see separate discussion below); inbound freight charges; warehousing costs, including receiving and inspection costs; transportation costs; and food production and operational costs. Warehousing, transportation and manufacturing management salaries are also included in the “Merchandise costs” line item; however, purchasing management salaries and administration costs are included in the “OG&A” line item along with most of the Company’s other managerial and administrative costs. Shipping and delivery costs associated with the Company’s digital offerings originating from non-retail store locations are included in the “Merchandise costs” line item. Rent expense and depreciation and amortization expense are shown separately in the Consolidated Statements of Operations.

Warehousing and transportation costs include distribution center direct wages, transportation direct wages, repairs and maintenance, utilities, inbound freight and, where applicable, third-party warehouse management fees. These costs are recognized in the periods the related expenses are incurred.

The Company believes the classification of costs included in merchandise costs could vary widely throughout the industry. The Company’s approach is to include in the “Merchandise costs” line item the direct, net costs of acquiring products and making them available to customers. The Company believes this approach most accurately presents the actual costs of products sold.

The Company recognizes all vendor allowances as a reduction in merchandise costs when the related product is sold. When possible, vendor allowances are applied to the related product cost by item and, therefore, reduce the carrying value of inventory by item. When the items are sold, the vendor allowance is recognized. When it is not possible, due to systems constraints, to allocate vendor allowances to the product by item, vendor allowances are recognized as a reduction in merchandise costs based on inventory turns and, therefore, recognized as the product is sold.

Advertising Costs

The Company’s advertising costs are recognized in the periods the related expenses are incurred and are included in the “Merchandise costs” line item of the Consolidated Statements of Operations. The Company’s advertising costs totaled \$1,030 in 2022, \$984 in 2021 and \$888 in 2020. The Company does not record vendor allowances for co-operative advertising as a reduction of advertising expense.

Operating, General and Administrative Expenses

OG&A expenses consist primarily of employee-related costs such as wages, healthcare benefit costs, retirement plan costs, utilities, and credit card fees. Shipping and delivery costs associated with the Company's digital offerings originating from retail store locations, including third-party delivery fees, are included in the "OG&A" line item of the Consolidated Statements of Operations. Rent expense, depreciation and amortization expense and interest expense are shown separately in the Consolidated Statement of Operations.

Consolidated Statements of Cash Flows

For purposes of the Consolidated Statements of Cash Flows, the Company considers all highly liquid debt instruments purchased with an original maturity of three months or less to be temporary cash investments.

Segments

The Company operates supermarkets, multi-department stores and fulfillment centers throughout the United States. The Company's retail operations, which represent 97% of the Company's consolidated sales, are its only reportable segment. The Company aggregates its operating divisions into one reportable segment due to the operating divisions having similar economic characteristics with similar long-term financial performance. In addition, the Company's operating divisions offer customers similar products, have similar distribution methods, operate in similar regulatory environments, purchase the majority of the merchandise for retail sale from similar (and in many cases identical) vendors on a coordinated basis from a centralized location, serve similar types of customers, and are allocated capital from a centralized location. Operating divisions are organized primarily on a geographical basis so that the operating division management team can be responsive to local needs of the operating division and can execute company strategic plans and initiatives throughout the locations in their operating division. This geographical separation is the primary differentiation between these retail operating divisions. The geographical basis of organization reflects how the business is managed and how the Company's Chief Executive Officer, who acts as the Company's chief operating decision maker, assesses performance internally. All of the Company's operations are domestic.

2. GOODWILL AND INTANGIBLE ASSETS

The following table summarizes the changes in the Company's net goodwill balance through January 28, 2023:

	2022	2021
Balance beginning of year		
Goodwill	\$ 5,737	\$ 5,737
Accumulated impairment losses	<u>(2,661)</u>	<u>(2,661)</u>
Subtotal	<u>3,076</u>	<u>3,076</u>
Activity during the year		
Impairment charge related to Vitacost.com	(160)	—
Balance end of year		
Goodwill	5,737	5,737
Accumulated impairment losses	<u>(2,821)</u>	<u>(2,661)</u>
Total Goodwill	<u>\$ 2,916</u>	<u>\$ 3,076</u>

Testing for impairment is performed annually, or on an interim basis upon the occurrence of a triggering event or a change in circumstances that would more likely than not reduce the fair value of a reporting unit below its carrying amount. The annual evaluation of goodwill and indefinite-lived intangible assets was performed during the fourth quarter of 2021 and 2020 and did not result in impairment.

Based on the results of the Company's impairment assessment in the fourth quarter of 2022, Vitacost.com recorded a \$160 goodwill impairment. In the fourth quarter of 2022, as the Company's digital strategy evolved, the Company's primary focus will be to effectively utilize its Pickup and Delivery capabilities. This reprioritization resulted in reduced long-term profitability expectations and a decline in the market value for one underlying channel of business and led to the pre-tax and after-tax impairment charge of \$160. The pre-impairment goodwill balance for Vitacost.com was \$160 as of the fourth quarter 2022. There is no goodwill remaining for Vitacost.com as of January 28, 2023.

The following table summarizes the Company's intangible assets balance through January 28, 2023:

	2022		2021	
	Gross carrying amount	Accumulated amortization ⁽¹⁾	Gross carrying amount	Accumulated amortization ⁽¹⁾
Definite-lived pharmacy prescription files	\$ 325	\$ (230)	\$ 317	\$ (199)
Definite-lived customer relationships	186	(173)	186	(160)
Definite-lived other	112	(96)	111	(88)
Indefinite-lived trade name	685	—	685	—
Indefinite-lived liquor licenses	90	—	90	—
Total	\$ 1,398	\$ (499)	\$ 1,389	\$ (447)

(1) Pharmacy prescription files are amortized to merchandise costs, customer relationships are amortized to depreciation and amortization expense and other intangibles are amortized to OG&A expense and depreciation and amortization expense.

Amortization expense associated with intangible assets totaled approximately \$52, \$59 and \$67, during fiscal years 2022, 2021 and 2020, respectively. Future amortization expense associated with the net carrying amount of definite-lived intangible assets for the years subsequent to 2022 is estimated to be approximately:

2023	\$ 41
2024	36
2025	32
2026	11
2027	2
Thereafter	2
Total future estimated amortization associated with definite-lived intangible assets	\$ 124

3. PROPERTY, PLANT AND EQUIPMENT, NET

Property, plant and equipment, net consists of:

	2022	2021
Land	\$ 3,442	\$ 3,395
Buildings and land improvements	14,539	13,996
Equipment	17,328	15,951
Leasehold improvements	11,435	10,775
Construction-in-progress	4,044	3,831
Leased property under finance leases	2,580	1,939
Total property, plant and equipment	53,368	49,887
Accumulated depreciation and amortization	(28,642)	(26,098)
Property, plant and equipment, net	\$ 24,726	\$ 23,789

Accumulated depreciation and amortization for leased property under finance leases was \$562 at January 28, 2023 and \$414 at January 29, 2022.

Approximately \$124 and \$136, net book value, of property, plant and equipment collateralized certain mortgages at January 28, 2023 and January 29, 2022, respectively.

Capitalized implementation costs associated with cloud computing arrangements of \$193, net of accumulated amortization of \$36, and \$151, net of accumulated amortization of \$15, are included in “Other assets” in the Company’s Consolidated Balance Sheets as of January 28, 2023 and January 29, 2022, respectively. The corresponding cash flows related to these arrangements are included in “Net cash provided by operating activities” in the Company’s Consolidated Statements of Cash Flows.

4. TAXES BASED ON INCOME

The provision for taxes based on income consists of:

	<u>2022</u>	<u>2021</u>	<u>2020</u>
Federal			
Current	\$ 401	\$ 349	\$ 577
Deferred	<u>162</u>	<u>(46)</u>	<u>75</u>
Subtotal federal	563	303	652
State and local			
Current	91	67	133
Deferred	<u>(1)</u>	<u>15</u>	<u>(3)</u>
Subtotal state and local	<u>90</u>	<u>82</u>	<u>130</u>
Total	<u>\$ 653</u>	<u>\$ 385</u>	<u>\$ 782</u>

A reconciliation of the statutory federal rate and the effective rate follows:

	<u>2022</u>	<u>2021</u>	<u>2020</u>
	21.0 %	21.0 %	21.0 %
Statutory rate	21.0 %	21.0 %	21.0 %
State income taxes, net of federal tax benefit	2.5	3.2	3.0
Credits	(0.8)	(1.3)	(0.7)
Resolution of tax audit examinations	(0.2)	(3.1)	—
Excess tax benefits from share-based payments	(1.9)	(1.3)	(0.8)
Impairment of goodwill related to Vitacost.com	1.2	—	—
Non-deductible executive compensation	0.5	0.6	0.3
Other changes, net	<u>0.2</u>	<u>(0.3)</u>	<u>0.4</u>
	<u>22.5 %</u>	<u>18.8 %</u>	<u>23.2 %</u>

The Company’s effective income tax rates were 22.5% in 2022, 18.8% in 2021, and 23.2% in 2020.

The 2022 tax rate differed from the federal statutory rate due to the effect of state income taxes and non-deductible goodwill impairment charges related to Vitacost.com, partially offset by the benefits from share-based payments and the utilization of tax credits.

The 2021 tax rate differed from the federal statutory rate primarily due to a discrete benefit of \$47 which was primarily from the favorable outcome of income tax audit examinations covering multiple years, the benefit from share-based payments and the utilization of tax credits, partially offset by the effect of state income taxes.

The 2020 tax rate differed from the federal statutory rate primarily due to the effect of state income taxes, partially offset by the utilization of tax credits and deductions.

The tax effects of significant temporary differences that comprise tax balances were as follows:

	<u>2022</u>	<u>2021</u>
Deferred tax assets:		
Compensation related costs	\$ 409	\$ 560
Lease liabilities	1,892	1,926
Closed store reserves	51	46
Unrealized losses on hedging instruments	74	—
Net operating loss and credit carryforwards	101	98
Deferred income	104	126
Allowance for uncollectible receivables	26	36
Other	<u>13</u>	<u>25</u>
 Subtotal	2,670	2,817
Valuation allowance	<u>(83)</u>	<u>(72)</u>
 Total deferred tax assets	2,587	2,745
 Deferred tax liabilities:		
Depreciation and amortization	(1,954)	(2,006)
Operating lease assets	(1,759)	(1,790)
Insurance related costs	(257)	(54)
Inventory related costs	(281)	(310)
Equity investments in excess of tax basis	<u>(8)</u>	<u>(147)</u>
 Total deferred tax liabilities	<u>(4,259)</u>	<u>(4,307)</u>
 Deferred taxes	<u><u>\$ (1,672)</u></u>	<u><u>\$ (1,562)</u></u>

At January 28, 2023, the Company had net operating loss carryforwards for state income tax purposes of \$1,468. These net operating loss carryforwards expire from 2023 through 2042. The utilization of certain of the Company's state net operating loss carryforwards may be limited in a given year. Further, the Company has recorded a valuation allowance against certain deferred tax assets resulting from its state net operating losses.

At January 28, 2023, the Company had state credit carryforwards of \$34. These state credit carryforwards expire from 2023 through 2036. The utilization of certain of the Company's credits may be limited in a given year. Further, the Company has recorded a valuation allowance against certain deferred tax assets resulting from its state credits.

The Company regularly reviews all deferred tax assets on a tax filer and jurisdictional basis to estimate whether these assets are more likely than not to be realized based on all available evidence. This evidence includes historical taxable income, projected future taxable income, the expected timing of the reversal of existing temporary differences and the implementation of tax planning strategies. Projected future taxable income is based on expected results and assumptions as to the jurisdiction in which the income will be earned. The expected timing of the reversals of existing temporary differences is based on current tax law and the Company's tax methods of accounting. Unless deferred tax assets are more likely than not to be realized, a valuation allowance is established to reduce the carrying value of the deferred tax asset until such time that realization becomes more likely than not. Increases and decreases in these valuation allowances are included in "Income tax expense" in the Consolidated Statements of Operations. As of January 28, 2023, January 29, 2022 and January 28, 2021 the total valuation allowance was \$83, \$72 and \$53, respectively.

A reconciliation of the beginning and ending amount of unrecognized tax benefits, including positions impacting only the timing of tax benefits, is as follows:

	2022	2021	2020
Beginning balance	\$ 100	\$ 193	\$ 174
Additions based on tax positions related to the current year	8	10	7
Additions for tax positions of prior years	6	9	16
Reductions for tax positions of prior years	(4)	(108)	—
Settlements	(9)	—	—
Lapse of statute	(8)	(4)	(4)
Ending balance	<u>\$ 93</u>	<u>\$ 100</u>	<u>\$ 193</u>

As of January 28, 2023, January 29, 2022 and January 30, 2021, the amount of unrecognized tax benefits that, if recognized, would effect the effective tax rate was \$66, \$73 and \$85, respectively.

To the extent interest and penalties would be assessed by taxing authorities on any underpayment of income tax, such amounts have been accrued and classified as a component of income tax expense. During the years ended January 28, 2023, January 29, 2022 and January 30, 2021, the Company recognized approximately \$(6), \$(15) and \$7, respectively, in interest and penalties (recoveries). The Company had accrued approximately \$14, \$22 and \$38 for the payment of interest and penalties as of January 28, 2023, January 29, 2022 and January 30, 2021, respectively.

As of January 28, 2023, the years ended February 1, 2020 and forward remain open for review for federal income tax purposes.

5. DEBT OBLIGATIONS

Long-term debt consists of:

	January 28, 2023	January 29, 2022
1.70% to 8.00% Senior Notes due through 2049	\$ 10,215	\$ 10,607
Other	1,077	1,138
Total debt, excluding obligations under finance leases	11,292	11,745
Less current portion	(1,153)	(451)
Total long-term debt, excluding obligations under finance leases	\$ 10,139	\$ 11,294

In 2022, the Company repaid \$400 of senior notes bearing an interest rate of 2.80% using cash on hand.

In 2021, the Company repaid \$300 of senior notes bearing an interest rate of 2.60%, \$500 of senior notes bearing an interest rate of 2.95%, and \$500 of senior notes bearing an interest rate of 3.40%, all using cash on hand.

Additionally in 2021, the Company acquired 28, previously leased, properties for a purchase price of \$455. Separately, the Company also entered into a transaction to sell those properties to a third party for total proceeds of \$621. Total cash proceeds received as a result of the transactions was \$166. The sale transaction did not qualify for sale-leaseback accounting treatment. As a result, the Company recorded property, plant and equipment for the \$455 price paid and recorded a \$621 financing obligation. The leases have a base term of 25 years and twelve option periods of five years each. The Company has the option to purchase the individual properties for fair market value at the end of the base term or at the end of any option period. The Company is obligated to repurchase the properties at the end of the base term for \$300 if the lessor exercises its put option.

On July 6, 2021, the Company entered into an amended and restated credit agreement, which credit agreement was further amended on November 9, 2022 (as so amended, the “Credit Agreement”) providing for a \$2,750 unsecured revolving credit facility (the “Revolving Credit Facility”), with a termination date of July 6, 2026, unless extended as permitted under the Credit Agreement. The Company has the ability to increase the size of the Revolving Credit Facility by up to an additional \$1,250, subject to certain conditions.

Borrowings under the Credit Agreement bear interest, at the Company’s option, at either (i) adjusted Term SOFR plus a market spread, based on the Company’s Public Debt Rating or (ii) the base rate, defined as the highest of (a) the Federal Funds Rate plus 0.5%, (b) Bank of America’s prime rate, and (c) one-month Term SOFR plus 1.0%, plus a market rate spread based on the Company’s Public Debt Rating. The Company will also pay a Commitment Fee based on its Public Debt Rating and Letter of Credit fees equal to a market rate spread based on the Company’s Public Debt Rating. “Public Debt Rating” means, as of any date, the rating that has been most recently announced by either S&P or Moody’s, as the case may be, for any class of non-credit enhanced long-term senior unsecured debt issued by the Company.

The Credit Agreement contains a covenant, which, among other things, requires the maintenance of a Leverage Ratio of not greater than (i) 3.50:1.00 or (ii) upon the consummation of the proposed merger with Albertsons, 4.50 to 1.00, with step downs to 4.25:1.00, 4.00:1.00, 3.75:1.00 and 3.50:1.00 effective at the end of the third, fifth, seventh and ninth, full fiscal quarters after the consummation of the proposed merger, respectively. The Company may repay the Credit Agreement in whole or in part at any time without premium or penalty. The Credit Agreement is not guaranteed by the Company’s subsidiaries.

On October 13, 2022, the Company entered into a merger agreement with Albertsons Companies, Inc. (“Albertsons”). For additional information about the Company’s unsecured bridge term loan facility and term loan credit agreement associated with the merger agreement, see Note 16 to the Consolidated Financial Statements.

As of January 28, 2023, and January 29, 2022, the Company had no commercial paper borrowings and no borrowings under the Credit Agreement.

As of January 28, 2023, the Company had outstanding letters of credit in the amount of \$310, of which \$2 reduces funds available under the Credit Agreement. As of January 29, 2022, the Company had outstanding letters of credit in the amount of \$363, of which \$2 reduces funds available under the Credit Agreement. The letters of credit are maintained primarily to support performance, payment, deposit or surety obligations of the Company.

Most of the Company’s outstanding public debt is subject to early redemption at varying times and premiums, at the option of the Company. In addition, subject to certain conditions, some of the Company’s publicly issued debt will be subject to redemption, in whole or in part, at the option of the holder upon the occurrence of a redemption event, upon not less than five days’ notice prior to the date of redemption, at a redemption price equal to the default amount, plus a specified premium. “Redemption Event” is defined in the indentures as the occurrence of (i) any person or group, together with any affiliate thereof, beneficially owning 50% or more of the voting power of the Company, (ii) any one person or group, or affiliate thereof, succeeding in having a majority of its nominees elected to the Company’s Board of Directors, in each case, without the consent of a majority of the continuing directors of the Company or (iii) both a change of control and a below investment grade rating.

The aggregate annual maturities and scheduled payments of long-term debt, as of year-end 2022, and for the years subsequent to 2022 are:

2023	\$ 1,153
2024	25
2025	84
2026	1,386
2027	607
Thereafter	<u>8,037</u>
 Total debt	 <u>\$ 11,292</u>

6. DERIVATIVE FINANCIAL INSTRUMENTS

GAAP requires that derivatives be carried at fair value on the balance sheet and provides for hedge accounting when certain conditions are met. The Company's derivative financial instruments are recognized on the balance sheet at fair value. Changes in the fair value of derivative instruments designated as "cash flow" hedges, to the extent the hedges are highly effective, are recorded in other comprehensive income, net of tax effects. Ineffective cash flow hedges, if any, are recognized in current period earnings. Other comprehensive income or loss is reclassified into current period earnings when the hedged transaction affects earnings. Changes in the fair value of derivative instruments designated as "fair value" hedges, along with corresponding changes in the fair values of the hedged assets or liabilities, are recorded in current period earnings. Ineffective fair value hedges, if any, are recognized in current period earnings. Changes in fair value of derivative instruments not designated as hedges are recognized in current period earnings and included in "(Loss) gain on investments" in the Company's Consolidated Statements of Operations.

The Company assesses, both at the inception of the hedge and on an ongoing basis, whether derivatives used as hedging instruments are highly effective in offsetting the changes in the fair value or cash flow of the hedged items. If it is determined that a derivative is not highly effective as a hedge or ceases to be highly effective, the Company discontinues hedge accounting prospectively.

Interest Rate Risk Management

The Company is exposed to market risk from fluctuations in interest rates. The Company manages its exposure to interest rate fluctuations through the use of a commercial paper program, interest rate swaps (fair value hedges) and forward-starting interest rate swaps (cash flow hedges). The Company's current program relative to interest rate protection contemplates hedging the exposure to changes in the fair value of fixed-rate debt attributable to changes in interest rates. To do this, the Company uses the following guidelines: (i) use average daily outstanding borrowings to determine annual debt amounts subject to interest rate exposure, (ii) limit the average annual amount subject to interest rate reset and the amount of floating rate debt to a combined total amount that represents 25% of the carrying value of the Company's debt portfolio or less, (iii) include no leveraged products, and (iv) hedge without regard to profit motive or sensitivity to current mark-to-market status.

The Company reviews compliance with these guidelines annually with the Finance Committee of the Board of Directors. These guidelines may change as the Company's needs dictate.

Fair Value Interest Rate Swaps

The Company did not have any outstanding interest rate derivatives classified as fair value hedges as of January 28, 2023 and January 29, 2022.

Cash Flow Forward-Starting Interest Rate Swaps

As of January 28, 2023, the Company had five forward-starting interest rate swap agreements with a maturity date of August 2027 with an aggregate notional amount totaling \$5,350. A forward-starting interest rate swap is an agreement that effectively hedges the variability in future benchmark interest payments attributable to changes in interest rates on the forecasted issuance of fixed-rate debt. The Company entered into these forward-starting interest rate swaps in order to lock in fixed interest rates on its forecasted issuances of debt. A notional amount of \$2,350 of these forward-starting interest rate swaps was designated as a cash-flow hedge as defined by GAAP. Accordingly, the changes in fair value of these forward-starting interest rate swaps are recorded to other comprehensive income and reclassified into net earnings when the hedged transaction affects net earnings. As of January 28, 2023, the fair value of these interest rate swaps designated as cash flow hedges was recorded in other long-term liabilities for \$116 and accumulated other comprehensive income for \$89, net of tax. The remainder of the notional amount of \$3,000 of the forward-starting interest rate swaps was not designated as a cash-flow hedge. Accordingly, the changes in the fair value of these forward-starting interest rate swaps not designated as cash-flow hedges are recognized through net earnings. As of January 28, 2023, the fair value of these swaps was recorded in other long-term liabilities for \$142. In 2022, the Company recognized an unrealized loss of \$142 related to these swaps that is included in "(Loss) gain on investments" in the Company's Consolidated Statements of Operations.

The Company did not have any outstanding forward-starting interest rate swap agreements as of January 29, 2022.

The following table summarizes the effect of the Company's derivative instruments designated as cash flow hedges for 2022, 2021 and 2020:

Derivatives in Cash Flow Hedging Relationships	Year-To-Date						Location of Gain/(Loss) Reclassified into Income	
	Amount of Gain/(Loss) in AOCI on Derivative			Amount of Gain/(Loss) Reclassified from AOCI into Income				
	2022	2021	2020	2022	2021	2020		
Forward-Starting Interest Rate Swaps, net of tax ⁽¹⁾	\$ (129)	\$ (47)	\$ (54)	\$ (7)	\$ (7)	\$ (2)	Interest expense	

(1) The amounts of Gain/(Loss) reclassified from AOCI into income on derivatives include unamortized proceeds and payments from forward-starting interest rate swaps once classified as cash flow hedges that were terminated prior to the end of 2020.

For the above cash flow interest rate swaps, the Company has entered into International Swaps and Derivatives Association master netting agreements that permit the net settlement of amounts owed under their respective derivative contracts. Under these master netting agreements, net settlement generally permits the Company or the counterparty to determine the net amount payable for contracts due on the same date and in the same currency for similar types of derivative transactions. These master netting agreements generally also provide for net settlement of all outstanding contracts with a counterparty in the case of an event of default or a termination event.

Collateral is generally not required of the counterparties or of the Company under these master netting agreements. As of January 28, 2023, no cash collateral was received or pledged under the master netting agreements.

The effect of the net settlement provisions of these master netting agreements on the Company's derivative balances upon an event of default or termination event is as follows as of January 28, 2023:

January 28, 2023	Gross Amount Recognized	Gross Amounts Offset in the Balance Sheet	Net Amount Presented in the Balance Sheet	Gross Amounts Not Offset in the Balance Sheet		
				Financial Instruments	Cash Collateral	Net Amount
Liabilities						
Cash Flow Forward-Starting Interest Rate Swaps	\$ 258	\$ —	\$ 258	\$ —	\$ —	\$ 258

7. FAIR VALUE MEASUREMENTS

GAAP establishes a fair value hierarchy that prioritizes the inputs used to measure fair value. The three levels of the fair value hierarchy defined in the standards are as follows:

Level 1 - Quoted prices are available in active markets for identical assets or liabilities;

Level 2 - Pricing inputs are other than quoted prices in active markets included in Level 1, which are either directly or indirectly observable;

Level 3 - Unobservable pricing inputs in which little or no market activity exists, therefore requiring an entity to develop its own assumptions about the assumptions that market participants would use in pricing an asset or liability.

For items carried at (or adjusted to) fair value in the consolidated financial statements, the following tables summarize the fair value of these instruments at January 28, 2023 and January 29, 2022:

January 28, 2023 Fair Value Measurements Using

	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Total
Marketable Securities	\$ 463	\$ —	\$ 463
Interest Rate Hedges	—	(258)	(258)
Total	\$ 463	\$ (258)	\$ 205

January 29, 2022 Fair Value Measurements Using

	Quoted Prices in Active Markets for Identical Assets (Level 1)
Marketable Securities	\$ 1,054

The company values interest rate hedges using observable forward yield curves. These forward yield curves are classified as Level 2 inputs.

Fair value measurements of non-financial assets and non-financial liabilities are primarily used in the impairment analysis of goodwill, other intangible assets, long-lived assets and in the valuation of store lease exit costs. The Company reviews goodwill and indefinite-lived intangible assets for impairment annually, during the fourth quarter of each fiscal year, and as circumstances indicate the possibility of impairment. See Note 2 for further discussion related to the Company's carrying value of goodwill. Long-lived assets and store lease exit costs were measured at fair value on a nonrecurring basis using Level 3 inputs as defined in the fair value hierarchy. See Note 1 for further discussion of the Company's policies for impairments of long-lived assets and valuation of store lease exit costs. In 2022, long-lived assets with a carrying amount of \$69 were written down to their fair value of \$1, resulting in an impairment charge of \$68. In 2021, long-lived assets with a carrying amount of \$74 were written down to their fair value of \$10, resulting in an impairment charge of \$64.

Fair Value of Other Financial Instruments

Current and Long-term Debt

The fair value of the Company's long-term debt, including current maturities, was estimated based on the quoted market prices for the same or similar issues adjusted for illiquidity based on available market evidence. If quoted market prices were not available, the fair value was based upon the net present value of the future cash flow using the forward interest rate yield curve in effect at respective year-ends. At January 28, 2023, the fair value of total debt excluding obligations under finance leases was \$10,593 compared to a carrying value of \$11,292. At January 29, 2022, the fair value of total debt excluding obligations under finance leases was \$13,189 compared to a carrying value of \$11,745.

Contingent Consideration

As a result of the Home Chef merger in 2018, the Company recognized a contingent liability of \$91 on the acquisition date. The contingent consideration was measured using unobservable (Level 3) inputs and was included in “Other long-term liabilities” within the Consolidated Balance Sheet. The Company estimated the fair value of the earnout liability by applying a Monte-Carlo simulation method using the Company’s projection of future operating results for both the online and offline businesses related to the Home Chef merger and the estimated probability of achievement of the earnout target metrics. The Monte-Carlo simulation is a generally accepted statistical technique used to generate a defined number of valuation paths in order to develop a reasonable estimate of the fair value of the earnout liability. The liability is remeasured to fair value using the Monte-Carlo simulation method at each reporting period, and the change in fair value, including accretion for the passage of time, is recognized in net earnings until the contingency is resolved. In 2020, the Company amended the contingent consideration agreement including the performance milestones to align with the Company’s current business strategies. In 2022 and 2021, the Company recorded adjustments to increase the contingent consideration liability for \$20 and \$66, respectively, in OG&A. During the first quarter of 2023, the Company will make the final contingent consideration payment, which is based on the fair value of the outstanding year-end 2022 liability.

Cash and Temporary Cash Investments, Store Deposits In-Transit, Receivables, Prepaid and Other Current Assets, Trade Accounts Payable, Accrued Salaries and Wages and Other Current Liabilities

The carrying amounts of these items approximated fair value due to their short term nature.

Other Assets

The equity investment in Ocado Group plc is measured at fair value through net earnings. The fair value of all shares owned, which is measured using Level 1 inputs, was \$401 and \$987 as of January 28, 2023 and January 29, 2022, respectively, and is included in “Other assets” in the Company’s Consolidated Balance Sheets. The unrealized (loss) gain for this Level 1 investment was approximately (\$586), (\$821) and \$1,032 for 2022, 2021, and 2020, respectively, and is included in “(Loss) Gain on investments” in the Company’s Consolidated Statements of Operations.

The Company held other equity investments without a readily determinable fair value. These investments are measured initially at cost and remeasured for observable price changes to fair value through net earnings. The value of these investments was \$320 and \$309 as of January 28, 2023 and January 29, 2022, respectively, and is included in “Other assets” in the Company’s Consolidated Balance Sheets. There were no observable price changes or impairments for these investments during 2022 or 2021, and as such, they are excluded from the fair value measurements table above for January 28, 2023 and January 29, 2022.

The following table presents the Company’s remaining other assets as of January 28, 2023 and January 29 2022:

	<u>January 28, 2023</u>	<u>January 29, 2022</u>
Other Assets		
Equity method and other long-term investments	\$ 274	\$ 282
Notes receivable	169	191
Prepaid deposits under certain contractual arrangements	199	214
Implementation costs related to cloud computing arrangements	193	151
Funded asset status of pension plans	69	156
Other	125	120
Total	<u>\$ 1,029</u>	<u>\$ 1,114</u>

8. ACCUMULATED OTHER COMPREHENSIVE INCOME (LOSS)

The following table represents the changes in AOCI by component for the years ended January 28, 2023 and January 29, 2022:

	Cash Flow Hedging Activities ⁽¹⁾	Pension and Postretirement Defined Benefit Plans ⁽¹⁾	Total ⁽¹⁾
Balance at January 30, 2021	\$ (54)	\$ (576)	\$ (630)
OCI before reclassifications ⁽²⁾	—	82	82
Amounts reclassified out of AOCI ⁽³⁾	7	74	81
Net current-period OCI	7	156	163
Balance at January 29, 2022	<u>\$ (47)</u>	<u>\$ (420)</u>	<u>\$ (467)</u>
Balance at January 29, 2022	\$ (47)	\$ (420)	\$ (467)
OCI before reclassifications ⁽²⁾	(89)	(88)	(177)
Amounts reclassified out of AOCI ⁽³⁾	7	5	12
Net current-period OCI	(82)	(83)	(165)
Balance at January 28, 2023	<u>\$ (129)</u>	<u>\$ (503)</u>	<u>\$ (632)</u>

(1) All amounts are net of tax.

(2) Net of tax of \$25 for pension and postretirement defined benefit plans as of January 29, 2022. Net of tax of (\$28) and (\$27) for pension and postretirement defined benefit plans and cash flow hedging activities, respectively, as of January 28, 2023.

(3) Net of tax of \$23 and \$3 for pension and postretirement defined benefit plans and cash flow hedging activities, respectively, as of January 29, 2022. Net of tax of \$2 and \$2 for pension and postretirement defined benefit plans and cash flow hedging activities, respectively, as of January 28, 2023.

The following table represents the items reclassified out of AOCI and the related tax effects for the years ended January 28, 2023, January 29, 2022 and January 30, 2021:

	For the year ended January 28, 2023	For the year ended January 29, 2022	For the year ended January 30, 2021
Cash flow hedging activity items			
Amortization of gains and losses on cash flow hedging activities ⁽¹⁾	\$ 9	\$ 10	\$ 4
Tax expense	(2)	(3)	(2)
Net of tax	<u>7</u>	<u>7</u>	<u>2</u>
Pension and postretirement defined benefit plan items			
Amortization of amounts included in net periodic pension cost ⁽²⁾	7	97	19
Tax expense	(2)	(23)	(5)
Net of tax	<u>5</u>	<u>74</u>	<u>14</u>
Total reclassifications, net of tax	<u>\$ 12</u>	<u>\$ 81</u>	<u>\$ 16</u>

(1) Reclassified from AOCI into interest expense.

(2) Reclassified from AOCI into non-service component of company-sponsored pension plan costs. These components are included in the computation of net periodic pension expense.

9. LEASES AND LEASE-FINANCED TRANSACTIONS

The Company leases certain store real estate, warehouses, distribution centers, fulfillment centers, office space and equipment. The Company operates in leased facilities in approximately half of its store locations. Lease terms generally range from 10 to 20 years with options to renew for varying terms at the Company's sole discretion. Certain leases also include options to purchase the leased property. Leases with an initial term of 12 months or less are not recorded on the balance sheet. Certain leases include escalation clauses or payment of executory costs such as property taxes, utilities or insurance and maintenance. Rent expense for leases with escalation clauses or other lease concessions are accounted for on a straight-line basis over the lease term. The Company's lease agreements do not contain any material residual value guarantees or material restrictive covenants. Certain properties or portions thereof are subleased to others for periods generally ranging from one to 20 years.

The following table provides supplemental balance sheet classification information related to leases:

	Classification	January 28, 2023	January 29, 2022
Assets			
Operating	Operating lease assets	\$ 6,662	\$ 6,695
Finance	Property, plant and equipment, net ⁽¹⁾	2,018	1,525
	Total leased assets	\$ 8,680	\$ 8,220
Liabilities			
Current			
Operating	Current portion of operating lease liabilities	\$ 662	\$ 650
Finance	Current portion of long-term debt including obligations under finance leases	157	104
	Total lease liabilities	\$ 9,120	\$ 8,695
Noncurrent			
Operating	Noncurrent operating lease liabilities	6,372	6,426
Finance	Long-term debt including obligations under finance leases	1,929	1,515

(1) Finance lease assets are recorded net of accumulated amortization of \$562 and \$414 as of January 28, 2023 and January 29, 2022.

The following table provides the components of lease cost:

Lease Cost	Classification	Year-To-Date	
		January 28, 2023	January 29, 2022
Operating lease cost ⁽¹⁾	Rent Expense	\$ 950	\$ 954
Sublease and other rental income	Rent Expense	(111)	(109)
Finance lease cost			
Amortization of leased assets	Depreciation and Amortization	161	95
Interest on lease liabilities	Interest Expense	66	52
	Net lease cost	\$ 1,066	\$ 992

(1) Includes short-term leases and variable lease costs, which are immaterial.

Maturities of operating and finance lease liabilities are listed below. Amounts in the table include options to extend lease terms that are reasonably certain of being exercised.

	Operating Leases	Finance Leases	Total
2023	\$ 930	\$ 228	\$ 1,158
2024	864	226	1,090
2025	791	222	1,013
2026	740	221	961
2027	683	223	906
Thereafter	5,688	1,492	7,180
 Total lease payments	 9,696	 2,612	 \$ 12,308
 Less amount representing interest	 2,662	 526	
 Present value of lease liabilities ⁽¹⁾	 \$ 7,034	 \$ 2,086	

(1) Includes the current portion of \$662 for operating leases and \$157 for finance leases.

Total future minimum rentals under non-cancellable subleases at January 28, 2023 were \$232.

The following table provides the weighted-average lease term and discount rate for operating and finance leases:

	January 28, 2023	January 29, 2022
Weighted-average remaining lease term (years)		
Operating leases	14.3	14.9
Finance leases	12.7	14.7
Weighted-average discount rate		
Operating leases	4.2 %	4.1 %
Finance leases	3.5 %	3.7 %

The following table provides supplemental cash flow information related to leases:

	Year-To-Date January 28, 2023	Year-To-Date January 29, 2022
Cash paid for amounts included in the measurement of lease liabilities		
Operating cash flows from operating leases	\$ 903	\$ 897
Operating cash flows from finance leases	\$ 66	\$ 52
Financing cash flows from finance leases	\$ 132	\$ 127
Leased assets obtained in exchange for new operating lease liabilities	\$ 602	\$ 669
Leased assets obtained in exchange for new finance lease liabilities	\$ 656	\$ 753
Net gain recognized from sale and leaseback transactions ⁽¹⁾	\$ 30	\$ 35
Impairment of operating lease assets	\$ 1	\$ 8
Impairment of finance lease assets	\$ 2	\$ 4

(1) In 2022, the Company entered into sale leaseback transactions related to five properties, which resulted in total proceeds of \$44. In 2021, the Company entered into sale leaseback transactions related to seven properties, which resulted in total proceeds of \$79.

On May 17, 2018, the Company entered into a Partnership Framework Agreement with Ocado International Holdings Limited and Ocado Group plc (“Ocado”), which has since been amended. Under this agreement, Ocado will partner exclusively with the Company in the U.S., enhancing the Company’s digital and robotics capabilities in its distribution networks. In 2022, the Company opened four additional Kroger Delivery customer fulfillment centers in Romulus, Michigan, Dallas, Texas, Pleasant Prairie, Wisconsin, and Aurora, Colorado. The Company determined the arrangement with Ocado contains a lease of the robotic equipment used to fulfill customer orders. As a result, the Company establishes a finance lease when each facility begins fulfilling orders to customers. The base term of each lease is 10 years with options to renew at the Company’s sole discretion. The Company elected to combine the lease and non-lease elements in the contract. As a result, the Company will account for all payments to Ocado as lease payments. In 2022, the Company recorded finance lease assets of \$629 and finance lease liabilities of \$583 related to these location openings. In 2021, the Company recorded finance lease assets of \$401 and finance lease liabilities of \$372 related to openings during 2021.

10. EARNINGS PER COMMON SHARE

Net earnings attributable to The Kroger Co. per basic common share equals net earnings attributable to The Kroger Co. less income allocated to participating securities divided by the weighted average number of common shares outstanding. Net earnings attributable to The Kroger Co. per diluted common share equals net earnings attributable to The Kroger Co. less income allocated to participating securities divided by the weighted average number of common shares outstanding, after giving effect to dilutive stock options. The following table provides a reconciliation of net earnings attributable to The Kroger Co. and shares used in calculating net earnings attributable to The Kroger Co. per basic common share to those used in calculating net earnings attributable to The Kroger Co. per diluted common share:

(in millions, except per share amounts)	For the year ended January 28, 2023			For the year ended January 29, 2022			For the year ended January 30, 2021		
	Earnings (Numerator)	Shares (Denominator)	Per Share Amount	Earnings (Numerator)	Shares (Denominator)	Per Share Amount	Earnings (Numerator)	Shares (Denominator)	Per Share Amount
Net earnings attributable to The Kroger Co. per basic common share	\$ 2,224	718	\$ 3.10	\$ 1,639	744	\$ 2.20	\$ 2,556	773	\$ 3.31
Dilutive effect of stock options		9			10			8	
Net earnings attributable to The Kroger Co. per diluted common share	\$ 2,224	727	\$ 3.06	\$ 1,639	754	\$ 2.17	\$ 2,556	781	\$ 3.27

The Company had combined undistributed and distributed earnings to participating securities totaling \$20, \$16 and \$29 in 2022, 2021 and 2020, respectively.

The Company had stock options outstanding for approximately 1.7 million, 2.4 million and 9.1 million shares, respectively, for the years ended January 28, 2023, January 29, 2022, and January 30, 2021, which were excluded from the computations of net earnings per diluted common share because their inclusion would have had an anti-dilutive effect on net earnings per diluted share.

11. STOCK-BASED COMPENSATION

The Company recognizes compensation expense for all share-based payments granted. The Company recognizes share-based compensation expense, net of an estimated forfeiture rate, over the requisite service period of the award based on the fair value at the date of the grant.

The Company grants options for common shares (“stock options”) to employees under various plans at an option price equal to the fair market value of the stock option at the date of grant. The Company accounts for stock options under the fair value recognition provisions. Stock options typically expire 10 years from the date of grant. Stock options vest between one and four years from the date of grant.

In addition to the stock options described above, the Company awards restricted stock to employees and incentive shares to nonemployee directors under various plans. The restrictions on the restricted share awards generally lapse between one and four years from the date of the awards. The Company determines the fair value for restricted stock awards in an amount equal to the fair market value of the underlying shares on the grant date of the award.

At January 28, 2023, approximately 53 million common shares were available for future options or restricted stock grants under the 2019 Amended and Restated Long-Term Incentive Plan. Options granted reduce the shares available under the Plans at a ratio of one to one. Restricted stock grants reduce the shares available under the Plans at a ratio of 2.83 to one.

Equity awards granted are based on the aggregate value of the award on the grant date. This can affect the number of shares granted in a given year as equity awards. Excess tax benefits related to equity awards are recognized in the provision for income taxes. Equity awards may be approved at one of four meetings of its Board of Directors occurring shortly after the Company's release of quarterly earnings. The 2022 primary grants were made in conjunction with the March and June meetings of the Company's Board of Directors.

All awards become immediately exercisable upon certain changes of control of the Company.

Stock Options

Changes in options outstanding under the stock option plans are summarized below:

	Shares subject to option (in millions)	Weighted- average exercise price
Outstanding, year-end 2019	32.2	\$ 24.52
Granted	2.9	\$ 29.31
Exercised	(7.3)	\$ 17.72
Canceled or Forfeited	<u>(1.0)</u>	\$ 30.53
Outstanding, year-end 2020	26.8	\$ 26.65
Granted	2.1	\$ 35.45
Exercised	(7.1)	\$ 24.70
Canceled or Forfeited	<u>(0.7)</u>	\$ 28.88
Outstanding, year-end 2021	21.1	\$ 28.15
Granted	1.2	\$ 56.13
Exercised	(5.4)	\$ 26.02
Canceled or Forfeited	<u>(0.3)</u>	\$ 31.54
Outstanding, year-end 2022	<u>16.6</u>	\$ 30.81

A summary of options outstanding, exercisable and expected to vest at January 28, 2023 follows:

	Number of shares (in millions)	Weighted-average remaining contractual life (in years)	Weighted-average exercise price	Aggregate intrinsic value (in millions)
Options Outstanding	16.6	5.08	\$ 30.81	\$ 250
Options Exercisable	12.3	4.07	\$ 28.29	\$ 205
Options Expected to Vest	4.3	7.89	\$ 37.77	\$ 44

Restricted stock

Changes in restricted stock outstanding under the restricted stock plans are summarized below:

	Restricted shares outstanding (in millions)	Weighted-average grant-date fair value
Outstanding, year-end 2019	9.3	\$ 24.85
Granted	4.0	\$ 31.99
Lapsed	(4.9)	\$ 24.69
Canceled or Forfeited	<u>(0.6)</u>	\$ 26.71
Outstanding, year-end 2020	7.8	\$ 28.46
Granted	3.9	\$ 37.29
Lapsed	(4.0)	\$ 29.58
Canceled or Forfeited	<u>(0.5)</u>	\$ 31.31
Outstanding, year-end 2021	7.2	\$ 32.52
Granted	3.0	\$ 50.50
Lapsed	(4.0)	\$ 32.16
Canceled or Forfeited	<u>(0.4)</u>	\$ 38.32
Outstanding, year-end 2022	<u>5.8</u>	\$ 41.76

The weighted-average grant date fair value of stock options granted during 2022, 2021 and 2020 was \$15.91, \$8.54 and \$6.43, respectively. The fair value of each stock option grant was estimated on the date of grant using the Black-Scholes option-pricing model, based on the assumptions shown in the table below. The Black-Scholes model utilizes accounting judgment and financial estimates, including the term option holders are expected to retain their stock options before exercising them, the volatility of the Company's share price over that expected term, the dividend yield over the term and the number of awards expected to be forfeited before they vest. Using alternative assumptions in the calculation of fair value would produce fair values for stock option grants that could be different than those used to record stock-based compensation expense in the Consolidated Statements of Operations. The increase in the fair value of the stock options granted during 2022, compared to 2021, resulted primarily from increases in the Company's share price, the weighted-average expected volatility, and an increase in the weighted-average risk-free interest rate. The increase in the fair value of the stock options granted during 2021, compared to 2020, resulted primarily from increases in the Company's share price and the weighted-average expected volatility.

The following table reflects the weighted-average assumptions used for grants awarded to option holders:

	<u>2022</u>	<u>2021</u>	<u>2020</u>
Weighted average expected volatility	30.47 %	28.52 %	26.96 %
Weighted average risk-free interest rate	2.09 %	1.21 %	0.82 %
Expected dividend yield	1.82 %	2.00 %	2.00 %
Expected term (based on historical results)	7.2 years	7.2 years	7.2 years

The weighted-average risk-free interest rate was based on the yield of a treasury note as of the grant date, continuously compounded, which matures at a date that approximates the expected term of the options. The dividend yield was based on our history and expectation of dividend payouts. Expected volatility was determined based upon historical stock volatilities; however, implied volatility was also considered. Expected term was determined based upon historical exercise and cancellation experience.

Total stock compensation recognized in 2022, 2021 and 2020 was \$190, \$203 and \$185, respectively. Stock option compensation recognized in 2022, 2021 and 2020 was \$19, \$20 and \$22, respectively. Restricted shares compensation recognized in 2022, 2021 and 2020 was \$171, \$183 and \$163, respectively.

The total intrinsic value of stock options exercised was \$159, \$121 and \$115 in 2022, 2021 and 2020, respectively. The total amount of cash received in 2022 by the Company from the exercise of stock options granted under share-based payment arrangements was \$134. As of January 28, 2023, there was \$206 of total unrecognized compensation expense remaining related to non-vested share-based compensation arrangements granted under the Plans. This cost is expected to be recognized over a weighted-average period of approximately two years. The total fair value of options that vested was \$19, \$20 and \$23 in 2022, 2021 and 2020, respectively.

Shares issued as a result of stock option exercises may be newly issued shares or reissued treasury shares. Proceeds received from the exercise of options, and the related tax benefit, may be utilized to repurchase the Company's common shares under a stock repurchase program adopted by the Company's Board of Directors. During 2022, the Company repurchased approximately three million common shares in such a manner.

12. COMMITMENTS AND CONTINGENCIES

The Company continuously evaluates contingencies based upon the best available evidence.

The Company believes that allowances for loss have been provided to the extent necessary and that its assessment of contingencies is reasonable. To the extent that resolution of contingencies results in amounts that vary from the Company's estimates, future earnings will be charged or credited.

The principal contingencies are described below:

Insurance — The Company's workers' compensation risks are self-insured in most states. In addition, other workers' compensation risks and certain levels of insured general liability risks are based on retrospective premium plans, deductible plans, and self-insured retention plans. The liability for workers' compensation risks is accounted for on a present value basis. Actual claim settlements and expenses incident thereto may differ from the provisions for loss. Property risks have been underwritten by a subsidiary and are all reinsured with unrelated insurance companies. Operating divisions and subsidiaries have paid premiums, and the insurance subsidiary has provided loss allowances, based upon actuarially determined estimates.

Litigation — Various claims and lawsuits arising in the normal course of business, including personal injury, contract disputes, employment discrimination, wage and hour and other regulatory claims are pending against the Company. Some of these suits purport or have been determined to be class actions and/or seek substantial damages. Although it is not possible at this time to evaluate the merits of all of these claims and lawsuits, nor their likelihood of success, the Company is of the belief that any resulting liability will not have a material effect on the Company's financial position, results of operations, or cash flows.

The Company continually evaluates its exposure to loss contingencies arising from pending or threatened litigation and believes it has made provisions where it is reasonably possible to estimate and when an adverse outcome is probable. Nonetheless, assessing and predicting the outcomes of these matters involves substantial uncertainties. Management currently believes that the aggregate range of loss for the Company's exposure is not material to the Company. It remains possible that despite management's current belief, material differences in actual outcomes or changes in management's evaluation or predictions could arise that could have a material adverse effect on the Company's financial condition, results of operations, or cash flows.

The Company is one of dozens of companies that have been named in various lawsuits alleging that defendants contributed to create a public nuisance through the distribution and dispensing of opioids.

At present, the Company is named in a significant number of lawsuits pending in various state courts, including cases brought by certain state Attorneys General, as well as in the United States District Court for the Northern District of Ohio, where over 2,000 cases have been consolidated as Multi-District Litigation ("MDL") pursuant to 28 U.S.C. §1407 in a case entitled *In re National Prescription Opiate Litigation*. Most of these cases have been stayed pending developments in bellwether MDL cases, including some in which the Company is named, which are proceeding on a staggered discovery schedule. Once discovery is completed, those cases will be remanded to the originating federal court for trial. In addition, the Company has received requests for documents and information from government agencies regarding opioids. The Company has and will cooperate with these inquiries.

The Company is vigorously defending these matters and believes that these cases are without merit. At this stage in the proceedings, the Company is unable to determine the probability of the outcome of these matters or the range of reasonably possible loss, if any.

In the third quarter of 2022, the Company recorded a charge of \$85 relating to a settlement of opioid litigation claims with the State of New Mexico. The agreed upon settlement framework allocates \$85 among various constituents related to the state of New Mexico. This settlement agreement resolved all opioid lawsuits and claims by the state of New Mexico against the Company. Kroger continues to vigorously defend against all claims and lawsuits relating to opioids.

Assignments — The Company is contingently liable for leases that have been assigned to various third parties in connection with facility closings and dispositions. The Company could be required to satisfy the obligations under the leases if any of the assignees is unable to fulfill its lease obligations. Due to the wide distribution of the Company's assignments among third parties, and various other remedies available, the Company believes the likelihood that it will be required to assume a material amount of these obligations is remote.

13. STOCK

Preferred Shares

The Company has authorized five million shares of voting cumulative preferred shares; two million shares were available for issuance at January 28, 2023. The shares have a par value of \$100 per share and are issuable in series.

Common Shares

The Company has authorized two billion common shares, \$1 par value per share.

Common Stock Repurchase Program

The Company maintains stock repurchase programs that comply with Rule 10b5-1 of the Securities Exchange Act of 1934 to allow for the orderly repurchase of The Kroger Co. common shares, from time to time. The Company made open market purchases totaling \$821, \$1,422 and \$1,196 under these repurchase programs in 2022, 2021 and 2020, respectively.

In addition to these repurchase programs, in December 1999, the Company began a program to repurchase common shares to reduce dilution resulting from its employee stock option plans. This program is solely funded by proceeds from stock option exercises and the related tax benefit. The Company repurchased approximately \$172, \$225 and \$128 under the stock option program during 2022, 2021 and 2020, respectively.

14. COMPANY- SPONSORED BENEFIT PLANS

The Company administers non-contributory defined benefit retirement plans for some non-union employees and union-represented employees as determined by the terms and conditions of collective bargaining agreements. These include several qualified pension plans (the "Qualified Plans") and non-qualified pension plans (the "Non-Qualified Plans"). The Non-Qualified Plans pay benefits to any employee that earns in excess of the maximum allowed for the Qualified Plans by Section 415 of the Internal Revenue Code. The Company only funds obligations under the Qualified Plans. Funding for the company-sponsored pension plans is based on a review of the specific requirements and on evaluation of the assets and liabilities of each plan.

In addition to providing pension benefits, the Company provides certain health care benefits for retired employees. Based on employee's age, years of service and position with the Company, the employee may be eligible for retiree health care benefits. Funding of retiree health care benefits occurs as claims or premiums are paid.

The Company recognizes the funded status of its retirement plans on the Consolidated Balance Sheets. Actuarial gains or losses and prior service credits that have not yet been recognized as part of net periodic benefit cost are required to be recorded as a component of AOCI. The Company has elected to measure defined benefit plan assets and obligations as of January 31, which is the month-end that is closest to its fiscal year-ends, which were January 28, 2023 for fiscal 2022 and January 29, 2022 for fiscal 2021.

Amounts recognized in AOCI as of January 28, 2023 and January 29, 2022 consist of the following (pre-tax):

	Pension Benefits		Other Benefits		Total	
	2022	2021	2022	2021	2022	2021
Net actuarial loss (gain)	\$ 785	\$ 715	\$ (108)	\$ (127)	\$ 677	\$ 588
Prior service credit	—	—	(23)	(43)	(23)	(43)
Total	\$ 785	\$ 715	\$ (131)	\$ (170)	\$ 654	\$ 545

Other changes recognized in other comprehensive income (loss) in 2022, 2021 and 2020 were as follows (pre-tax):

	Pension Benefits			Other Benefits			Total		
	2022	2021	2020	2022	2021	2020	2022	2021	2020
Incurred net actuarial loss (gain)	\$ 101	\$ (109)	\$ 36	\$ 15	\$ 2	\$ (46)	\$ 116	\$ (107)	\$ (10)
Amortization of prior service credit	—	—	—	13	12	13	13	12	13
Amortization of net actuarial gain (loss)	(31)	(126)	(40)	11	17	8	(20)	(109)	(32)
Total recognized in other comprehensive income (loss)	<u>\$ 70</u>	<u>\$ (235)</u>	<u>\$ (4)</u>	<u>\$ 39</u>	<u>\$ 31</u>	<u>\$ (25)</u>	<u>\$ 109</u>	<u>\$ (204)</u>	<u>\$ (29)</u>
Total recognized in net periodic benefit cost and other comprehensive income (loss)	<u>\$ 58</u>	<u>\$ (164)</u>	<u>\$ (4)</u>	<u>\$ 25</u>	<u>\$ 10</u>	<u>\$ (34)</u>	<u>\$ 83</u>	<u>\$ (154)</u>	<u>\$ (38)</u>

Information with respect to change in benefit obligation, change in plan assets, the funded status of the plans recorded in the Consolidated Balance Sheets, net amounts recognized at the end of fiscal years, weighted-average assumptions and components of net periodic benefit cost follow:

	Pension Benefits					
	Qualified Plans		Non-Qualified Plans		Other Benefits	
	2022	2021	2022	2021	2022	2021
Change in benefit obligation:						
Benefit obligation at beginning of fiscal year	\$ 2,977	\$ 3,615	\$ 325	\$ 351	\$ 150	\$ 152
Service cost	8	12	—	—	5	4
Interest cost	92	92	10	9	5	4
Plan participants' contributions	4	—	—	—	12	13
Actuarial (gain) loss	(421)	(125)	(40)	(12)	8	2
Plan settlements	(33)	(442)	(2)	—	—	—
Benefits paid	(159)	(172)	(22)	(24)	(22)	(25)
Other	(5)	(3)	—	1	7	—
Benefit obligation at end of fiscal year	<u>\$ 2,463</u>	<u>\$ 2,977</u>	<u>\$ 271</u>	<u>\$ 325</u>	<u>\$ 165</u>	<u>\$ 150</u>
Change in plan assets:						
Fair value of plan assets at beginning of fiscal year	\$ 3,096	\$ 3,569	\$ —	\$ —	\$ —	\$ —
Actual return on plan assets	(409)	141	—	—	—	—
Employer contributions	2	—	24	24	10	12
Plan participants' contributions	4	—	—	—	12	13
Plan settlements	(33)	(442)	(2)	—	—	—
Benefits paid	(159)	(172)	(22)	(24)	(22)	(25)
Other	(5)	—	—	—	—	—
Fair value of plan assets at end of fiscal year	<u>\$ 2,496</u>	<u>\$ 3,096</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>
Funded status and net asset and liability recognized at end of fiscal year	<u>\$ 33</u>	<u>\$ 119</u>	<u>\$ (271)</u>	<u>\$ (325)</u>	<u>\$ (165)</u>	<u>\$ (150)</u>

As of January 28, 2023, other assets and other current liabilities include \$69 and \$36, respectively, of the net asset and liability recognized for the above benefit plans. As of January 29, 2022, other assets and other current liabilities include \$156 and \$34, respectively, of the net asset and liability recognized for the above benefit plans. Pension plan assets do not include common shares of The Kroger Co.

In 2021, the Company settled certain company-sponsored pension plan obligations using existing assets of the plans. The Company recognized a non-cash settlement charge of \$87, \$68 net of tax, associated with the settlement of its obligations for the eligible participants' pension balances that were distributed out of the plans via a lump sum distribution or the purchase of an annuity contract, based on each participant's election. The settlement charge is included in "Non-service component of company-sponsored pension plan costs" in the Consolidated Statements of Operations.

The following table outlines the weighted average assumptions associated with pension and other benefit costs for 2022, 2021 and 2020:

Weighted average assumptions	Pension Benefits			Other Benefits		
	2022	2021	2020	2022	2021	2020
Discount rate — Benefit obligation	4.90 %	3.17 %	2.72 %	4.86 %	3.01 %	2.43 %
Discount rate — Net periodic benefit cost	3.17 %	2.72 %	3.01 %	3.01 %	2.43 %	2.97 %
Expected long-term rate of return on plan assets	5.50 %	5.50 %	5.50 %			
Rate of compensation increase — Net periodic benefit cost	3.05 %	3.03 %	3.03 %			
Rate of compensation increase — Benefit obligation	2.57 %	3.05 %	3.03 %			
Cash Balance plan interest crediting rate	3.30 %	3.30 %	3.30 %			

The Company's discount rate assumptions were intended to reflect the rates at which the pension benefits could be effectively settled. They take into account the timing and amount of benefits that would be available under the plans. The Company's policy is to match the plan's cash flows to that of a hypothetical bond portfolio whose cash flow from coupons and maturities match the plan's projected benefit cash flows. The discount rates are the single rates that produce the same present value of cash flows. The selection of the 4.90% and 4.86% discount rates as of year-end 2022 for pension and other benefits, respectively, represents the hypothetical bond portfolio using bonds with an AA or better rating constructed with the assistance of an outside consultant. A 100 basis point increase in the discount rate would decrease the projected pension benefit obligation as of January 28, 2023, by approximately \$225.

The Company's assumed pension plan investment return rate was 5.50% in 2022, 2021, and 2020. The value of all investments in the company-sponsored defined benefit pension plans during the calendar year ended December 31, 2022, net of investment management fees and expenses, decreased 22.5% and for fiscal year 2022 investments decreased 15.4%. Historically, the Company's pension plans' average rate of return was 4.4% for the 10 calendar years ended December 31, 2022, net of all investment management fees and expenses. For the past 20 years, the Company's pension plans' average annual rate of return has been 7.0%. To determine the expected rate of return on pension plan assets held by the Company, the Company considers current and forecasted plan asset allocations as well as historical and forecasted rates of return on various asset categories.

The Company calculates its expected return on plan assets by using the market-related value of plan assets. The market-related value of plan assets is determined by adjusting the actual fair value of plan assets for gains or losses on plan assets. Gains or losses represent the difference between actual and expected returns on plan investments for each plan year. Gains or losses on plan assets are recognized evenly over a five-year period. Using a different method to calculate the market-related value of plan assets would provide a different expected return on plan assets.

The pension benefit unfunded status increased in 2022, compared to 2021, due primarily to a lower actual rate of return on plan assets, partially offset by an increase in discount rates, which lowered the benefit obligation. The Company's Qualified Plans were fully funded as of January 28, 2023 and January 29, 2022.

The following table provides the components of the Company's net periodic benefit costs for 2022, 2021 and 2020:

	Pension Benefits								
	Qualified Plans			Non-Qualified Plans			Other Benefits		
	2022	2021	2020	2022	2021	2020	2022	2021	2020
Components of net periodic benefit cost:									
Service cost	\$ 8	\$ 12	\$ 13	\$ —	\$ —	\$ —	\$ 5	\$ 4	\$ 7
Interest cost	92	92	104	10	9	10	5	4	6
Expected return on plan assets	(153)	(168)	(168)	—	—	—	—	—	—
Amortization of:									
Prior service credit	—	—	—	—	—	—	(13)	(12)	(13)
Actuarial (gain) loss	22	33	35	5	6	5	(11)	(17)	(8)
Settlement loss recognized	4	87	—	—	—	—	—	—	—
Other	—	(1)	1	—	1	—	—	—	(1)
Net periodic benefit cost	<u>\$ (27)</u>	<u>\$ 55</u>	<u>\$ (15)</u>	<u>\$ 15</u>	<u>\$ 16</u>	<u>\$ 15</u>	<u>\$ (14)</u>	<u>\$ (21)</u>	<u>\$ (9)</u>

The following table provides the projected benefit obligation ("PBO") and the fair value of plan assets for those company-sponsored pension plans with projected benefit obligations in excess of plan assets:

	Qualified Plans		Non-Qualified Plans	
	2022	2021	2022	2021
PBO at end of fiscal year	\$ 176	\$ 244	\$ 271	\$ 325
Fair value of plan assets at end of year	\$ 141	\$ 207	\$ —	\$ —

The following table provides the accumulated benefit obligation ("ABO") and the fair value of plan assets for those company-sponsored pension plans with accumulated benefit obligations in excess of plan assets:

	Qualified Plans		Non-Qualified Plans	
	2022	2021	2022	2021
ABO at end of fiscal year	\$ 176	\$ 244	\$ 271	\$ 325
Fair value of plan assets at end of year	\$ 141	\$ 207	\$ —	\$ —

The following table provides information about the Company's estimated future benefit payments:

	Pension Benefits	Other Benefits
2023	\$ 206	\$ 13
2024	\$ 209	\$ 14
2025	\$ 210	\$ 15
2026	\$ 211	\$ 16
2027	\$ 210	\$ 16
2028 — 2032	\$ 998	\$ 75

The following table provides information about the target and actual pension plan asset allocations as of January 28, 2023:

	Target allocations 2022	Actual Allocations	
		2022	2021
Pension plan asset allocation			
Global equity securities	5.0 %	4.9 %	7.0 %
Emerging market equity securities	—	—	1.7
Investment grade debt securities	78.0	75.8	73.6
High yield debt securities	3.0	2.9	2.5
Private equity	10.0	9.8	10.6
Hedge funds	2.0	2.3	2.9
Real estate	2.0	1.8	1.7
Other	—	2.5	—
Total	100.0 %	100.0 %	100.0 %

Investment objectives, policies and strategies are set by the Retirement Benefit Plan Management Committee (the “Committee”). The primary objectives include holding and investing the assets and distributing benefits to participants and beneficiaries of the pension plans. Investment objectives have been established based on a comprehensive review of the capital markets and each underlying plan’s current and projected financial requirements. The time horizon of the investment objectives is long-term in nature and plan assets are managed on a going-concern basis.

Investment objectives and guidelines specifically applicable to each manager of assets are established and reviewed annually. Derivative instruments may be used for specified purposes, including rebalancing exposures to certain asset classes. Any use of derivative instruments for a purpose or in a manner not specifically authorized is prohibited, unless approved in advance by the Committee.

The target allocations shown for 2022 were established at the beginning of 2022 based on the Company’s liability-driven investment (“LDI”) strategy. An LDI strategy focuses on maintaining a close to fully-funded status over the long-term with minimal funded status risk. This is achieved by investing more of the plan assets in fixed income instruments to more closely match the duration of the plan liability.

The Company did not make any significant contributions to its company-sponsored pension plans in 2022, and the Company is not required to make any contributions to these plans in 2023. If the Company does make any contributions in 2023, the Company expects these contributions will decrease its required contributions in future years. Among other things, investment performance of plan assets, the interest rates required to be used to calculate the pension obligations, and future changes in legislation, will determine the amounts of any contributions. The Company expects 2023 net periodic benefit costs for company-sponsored pension plans to be approximately (\$7).

Assumed health care cost trend rates have a significant effect on the amounts reported for the health care plans. The Company used a 6.20% initial health care cost trend rate, which is assumed to decrease on a linear basis to a 4.00% ultimate health care cost trend rate in 2046, to determine its expense.

The following tables, set forth by level within the fair value hierarchy, present the Qualified Plans' assets at fair value as of January 28, 2023 and January 29, 2022:

Assets at Fair Value as of January 28, 2023

	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Assets Measured at NAV	Total
Cash and cash equivalents	\$ 178	\$ —	\$ —	\$ —	\$ 178
Corporate Stocks	4	—	—	—	4
Corporate Bonds	—	1,113	—	—	1,113
U.S. Government Securities	—	115	—	—	115
Mutual Funds	124	—	—	—	124
Collective Trusts	—	—	—	514	514
Hedge Funds	—	—	31	28	59
Private Equity	—	—	—	248	248
Real Estate	—	—	28	16	44
Other	—	98	—	—	98
Total	\$ 306	\$ 1,326	\$ 59	\$ 806	\$ 2,497

Assets at Fair Value as of January 29, 2022

	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Assets Measured at NAV	Total
Cash and cash equivalents	\$ 80	\$ —	\$ —	\$ —	\$ 80
Corporate Stocks	98	—	—	—	98
Corporate Bonds	—	1,070	—	—	1,070
U.S. Government Securities	—	144	—	—	144
Mutual Funds	265	—	—	—	265
Collective Trusts	—	—	—	871	871
Hedge Funds	—	—	39	49	88
Private Equity	—	—	—	326	326
Real Estate	—	—	37	16	53
Other	—	101	—	—	101
Total	\$ 443	\$ 1,315	\$ 76	\$ 1,262	\$ 3,096

Certain investments that are measured at fair value using the NAV per share (or its equivalent) have not been classified in the fair value hierarchy. The fair value amounts presented for these investments in the preceding tables are intended to permit reconciliation of the fair value hierarchies to the total fair value of plan assets.

For measurements using significant unobservable inputs (Level 3) during 2022 and 2021, a reconciliation of the beginning and ending balances is as follows:

	Hedge Funds	Real Estate
Ending balance, January 30, 2021	\$ 35	\$ 39
Contributions into Fund	—	1
Realized gains	2	2
Unrealized gains	7	6
Distributions	<u>(5)</u>	<u>(11)</u>
Ending balance, January 29, 2022	39	37
Contributions into Fund	—	1
Realized gains	—	12
Unrealized losses	(3)	(6)
Distributions	<u>(5)</u>	<u>(16)</u>
Ending balance, January 28, 2023	<u>\$ 31</u>	<u>\$ 28</u>

See Note 7 for a discussion of the levels of the fair value hierarchy. The assets' fair value measurement level above is based on the lowest level of any input that is significant to the fair value measurement.

The following is a description of the valuation methods used for the Qualified Plans' assets measured at fair value in the above tables:

- Cash and cash equivalents: The carrying value approximates fair value.
- Corporate Stocks: The fair values of these securities are based on observable market quotations for identical assets and are valued at the closing price reported on the active market on which the individual securities are traded.
- Corporate Bonds: The fair values of these securities are primarily based on observable market quotations for similar bonds, valued at the closing price reported on the active market on which the individual securities are traded. When such quoted prices are not available, the bonds are valued using a discounted cash flow approach using current yields on similar instruments of issuers with similar credit ratings, including adjustments for certain risks that may not be observable, such as credit and liquidity risks.
- U.S. Government Securities: Certain U.S. Government securities are valued at the closing price reported in the active market in which the security is traded. Other U.S. government securities are valued based on yields currently available on comparable securities of issuers with similar credit ratings. When quoted prices are not available for similar securities, the security is valued under a discounted cash flow approach that maximizes observable inputs, such as current yields of similar instruments, but includes adjustments for certain risks that may not be observable, such as credit and liquidity risks.
- Mutual Funds: The fair values of these securities are based on observable market quotations for identical assets and are valued at the closing price reported on the active market on which the individual securities are traded.
- Collective Trusts: The collective trust funds are public investment vehicles valued using a Net Asset Value (NAV) provided by the manager of each fund. These assets have been valued using NAV as a practical expedient.
- Hedge Funds: The Hedge funds classified as Level 3 include investments that are not readily tradeable and have valuations that are not based on readily observable data inputs. The fair value of these assets is estimated based on information provided by the fund managers or the general partners. Therefore, these assets are classified as Level 3. Certain other hedge funds are private investment vehicles valued using a NAV provided by the manager of each fund. These assets have been valued using NAV as a practical expedient.

- **Private Equity:** Private Equity investments are valued based on the fair value of the underlying securities within the fund, which include investments both traded on an active market and not traded on an active market. For those investments that are traded on an active market, the values are based on the closing price reported on the active market on which those individual securities are traded. For investments not traded on an active market, or for which a quoted price is not publicly available, a variety of unobservable valuation methodologies, including discounted cash flow, market multiple and cost valuation approaches, are employed by the fund manager to value investments. Fair values of all investments are adjusted annually, if necessary, based on audits of the private equity fund financial statements; such adjustments are reflected in the fair value of the plan's assets.
- **Real Estate:** Real estate investments include investments in real estate funds managed by a fund manager. These investments are valued using a variety of unobservable valuation methodologies, including discounted cash flow, market multiple and cost valuation approaches. The valuations for these investments are not based on readily observable inputs and are classified as Level 3 investments. Certain other real estate investments are valued using a NAV provided by the manager of each fund. These assets have been valued using NAV as a practical expedient.

The methods described above may produce a fair value calculation that may not be indicative of net realizable value or reflective of future fair values. Furthermore, while the Company believes its valuation methods are appropriate and consistent with other market participants, the use of different methodologies or assumptions to determine the fair value of certain financial instruments could result in a different fair value measurement.

The Company contributed and expensed \$315, \$289 and \$294 to employee 401(k) retirement savings accounts in 2022, 2021 and 2020, respectively. The 401(k) retirement savings account plans provide to eligible employees both matching contributions and automatic contributions from the Company based on participant contributions, compensation as defined by the plan and length of service.

15. MULTI-EMPLOYER PENSION PLANS

The Company contributes to various multi-employer pension plans based on obligations arising from collective bargaining agreements. These multi-employer pension plans provide retirement benefits to participants based on their service to contributing employers. The benefits are paid from assets held in trust for that purpose. Trustees are appointed in equal number by employers and unions. The trustees typically are responsible for determining the level of benefits to be provided to participants as well as for such matters as the investment of the assets and the administration of the plans.

The Company recognizes expense in connection with these plans as contributions are funded or when commitments are probable and reasonably estimable, in accordance with GAAP. The Company made cash contributions to these plans of \$620 in 2022, \$1,109 in 2021 and \$619 in 2020. The decrease in 2022, compared to 2021, and the increase in 2021, compared to 2020, are due to the contractual payments the Company made in 2021 related to its commitments established for the restructuring of certain multi-employer pension plan agreements.

The Company continues to evaluate and address potential exposure to under-funded multi-employer pension plans as it relates to the Company's associates who are beneficiaries of these plans. These under-fundings are not a liability of the Company. When an opportunity arises that is economically feasible and beneficial to the Company and its associates, the Company may negotiate the restructuring of under-funded multi-employer pension plan obligations to help stabilize associates' future benefits and become the fiduciary of the restructured multi-employer pension plan. The commitments from these restructurings do not change the Company's debt profile as it relates to its credit rating since these off balance sheet commitments are typically considered in the Company's investment grade debt rating.

The Company is currently designated as the named fiduciary of the United Food and Commercial Workers (“UFCW”) Consolidated Pension Plan and the International Brotherhood of Teamsters (“IBT”) Consolidated Pension Fund and has sole investment authority over these assets. Due to opportunities arising, the Company has restructured certain multi-employer pension plans. The significant effects of these restructuring agreements recorded in our Consolidated Financial Statements are:

- In 2022, the Company incurred a \$25 charge, \$19 net of tax, for obligations related to withdrawal liabilities for certain multi-employer pension funds.
- In 2021, associates within the Fred Meyer and QFC divisions ratified an agreement for the transfer of liabilities from the Sound Retirement Trust to the UFCW Consolidated Pension Plan. The Company transferred \$449, \$344 net of tax, in net accrued pension liabilities and prepaid escrow funds to fulfill obligations for past service for associates and retirees. The agreement will be satisfied by cash installment payments to the UFCW Consolidated Pension Plan and will be paid evenly over seven years.
- In 2020, certain of the Company’s associates ratified an agreement with certain UFCW local unions to withdraw from the UFCW International Union-Industry Pension Fund (“National Fund”). Due to the ratification of the agreement, the Company incurred a withdrawal liability charge of \$962, on a pre-tax basis, to fulfill obligations for past service for associates and retirees in the National Fund. The Company also incurred an additional \$27 commitment to a transition reserve in the new variable annuity pension plan. On an after-tax basis, the withdrawal liability and commitment to the transition reserve totaled \$754. As of January 29, 2022, the current portion of the commitment of \$233 is included in “Other current liabilities” and the long-term portion of the commitment of \$233 is included in “Other long-term liabilities” in the Company’s Consolidated Balance Sheets. As of January 28, 2023, the current portion of the commitment of \$240 is included in “Other current liabilities” in the Company’s Consolidated Balance Sheets. In 2022 and 2021, the Company paid \$226 and \$523 of these commitments, respectively. The original commitment of \$962 on a pre-tax basis, will be satisfied by payment to the National Fund over three years. In 2020, in “Other” within “Changes in operating assets and liabilities”, the Company’s Consolidated Statements of Cash Flows includes the change related to recording the long-term portion of the withdrawal liability commitment.

The risks of participating in multi-employer pension plans are different from the risks of participating in single-employer pension plans in the following respects:

- Assets contributed to the multi-employer plan by one employer may be used to provide benefits to employees of other participating employers.
- If a participating employer stops contributing to the plan, the unfunded obligations of the plan allocable to such withdrawing employer may be borne by the remaining participating employers.
- If the Company stops participating in some of its multi-employer pension plans, the Company may be required to pay those plans an amount based on its allocable share of the unfunded vested benefits of the plan, referred to as a withdrawal liability.

The Company’s participation in multi-employer plans is outlined in the following tables. The EIN / Pension Plan Number column provides the Employer Identification Number (“EIN”) and the three-digit pension plan number. The most recent Pension Protection Act Zone Status available in 2022 and 2021 is for the plan’s year-end at December 31, 2021 and December 31, 2020, respectively. Among other factors, generally, plans in the red zone are less than 65 percent funded, plans in the yellow zone are less than 80 percent funded and plans in the green zone are at least 80 percent funded. The zone status is confirmed by each plan’s actuarial valuation. The FIP/RP Status Pending / Implemented Column indicates plans for which a funding improvement plan (“FIP”) or a rehabilitation plan (“RP”) is either pending or has been implemented. Unless otherwise noted, the information for these tables was obtained from the Forms 5500 filed for each plan’s year-end at December 31, 2021 and December 31, 2020. The multi-employer contributions listed in the table below are the Company’s multi-employer contributions made in fiscal years 2022, 2021 and 2020.

The following table contains information about the Company's multi-employer pension plans:

Pension Fund	EIN / Pension Plan Number	Pension Protection		FIP/RP Status Pending/ Implemented	Multi-Employer Contributions			Surcharge Imposed ⁽⁵⁾
		Act Zone 2022	2021		2022	2021	2020	
SO CA UFCW Unions & Food Employers Joint Pension Trust Fund ⁽¹⁾⁽²⁾	95-1939092 - 001	Red	Yellow	Implemented	\$ 84	\$ 83	\$ 86	No
Desert States Employers & UFCW Unions Pension Plan ⁽¹⁾	84-6277982 - 001	Green	Green	No	20	22	19	No
Sound Variable Annuity Pension Trust ⁽¹⁾⁽³⁾	86-3278029 - 001	Green	Yellow	No	14	24	29	No
Rocky Mountain UFCW Unions and Employers Pension Plan ⁽¹⁾	84-6045986 - 001	Green	Green	No	27	29	28	No
Oregon Retail Employees Pension Plan ⁽¹⁾	93-6074377 - 001	Red	Green	Implemented	9	10	9	No
Bakery and Confectionary Union & Industry International Pension Fund ⁽¹⁾	52-6118572 - 001	Red	Red	Implemented	7	8	8	No
Retail Food Employers & UFCW Local 711 Pension ⁽¹⁾	51-6031512 - 001	Red	Yellow	Implemented	11	11	11	No
UFCW International Union — Industry Variable Annuity Pension Plan ⁽¹⁾⁽⁴⁾	51-6055922 - 001	Green	Green	No	282	550	29	No
Western Conference of Teamsters Pension Plan	91-6145047 - 001	Green	Green	No	40	37	35	No
Central States, Southeast & Southwest Areas Pension Plan	36-6044243 - 001	Red	Red	Implemented	34	37	12	No
UFCW Consolidated Pension Plan ⁽¹⁾	58-6101602 - 001	Green	Green	No	56	243	321	No
IBT Consolidated Pension Plan ⁽¹⁾⁽⁶⁾	82-2153627 - 001	N/A	N/A	No	7	29	18	No
Other					29	26	14	
Total Contributions					<u>\$ 620</u>	<u>\$ 1,109</u>	<u>\$ 619</u>	

- (1) The Company's multi-employer contributions to these respective funds represent more than 5% of the total contributions received by the pension funds.
- (2) The information for this fund was obtained from the Form 5500 filed for the plan's year-end at March 31, 2022 and March 31, 2021.
- (3) The information for this fund was obtained from the Form 5500 filed for the plan's year-end at September 30, 2021 and September 30, 2020.
- (4) The information for this fund was obtained from the Form 5500 filed for the plan's year-end at June 30, 2021 and June 30, 2020.
- (5) Under the Pension Protection Act, a surcharge may be imposed when employers make contributions under a collective bargaining agreement that is not in compliance with a rehabilitation plan. As of January 28, 2023, the collective bargaining agreements under which the Company was making contributions were in compliance with rehabilitation plans adopted by the applicable pension fund.
- (6) The plan was formed after 2006, and therefore is not subject to zone status certifications.

The following table describes (a) the expiration date of the Company's collective bargaining agreements and (b) the expiration date of the Company's most significant collective bargaining agreements for each of the material multi-employer funds in which the Company participates:

Pension Fund	Expiration Date of Collective Bargaining Agreements	Most Significant Collective Bargaining Agreements ⁽¹⁾	
		Count	Expiration
SO CA UFCW Unions & Food Employers Joint Pension Trust Fund	June 2024 to March 2025	2	June 2024 to March 2025
UFCW Consolidated Pension Plan	February 2023 to July 2026	3	February 2024 to March 2026
Desert States Employers & UFCW Unions Pension Plan	April 2023 to June 2025	1	October 2023
Sound Variable Annuity Pension Trust	June 2023 to February 2026	5	May 2025 to August 2025
Rocky Mountain UFCW Unions and Employers Pension Plan	January 2025 to February 2025	2	January 2025
Oregon Retail Employees Pension Plan	August 2024 to March 2026	3	August 2024 to July 2025
Bakery and Confectionary Union & Industry International Pension Fund	April 2024 to September 2025	4	May 2024 to October 2024
Retail Food Employers & UFCW Local 711 Pension	April 2023 to March 2025	1	March 2025
UFCW International Union — Industry Variable Annuity Pension Plan	June 2025	1	June 2025
Western Conference of Teamsters Pension Plan	April 2023 to September 2025	5	April 2024 to September 2025
IBT Consolidated Pension Plan	September 2024 to September 2027	3	September 2024 to September 2027

(1) This column represents the number of significant collective bargaining agreements and their expiration date for each of the Company's pension funds listed above. For the purposes of this table, the "significant collective bargaining agreements" are the largest based on covered employees that, when aggregated, cover the majority of the employees for which we make multi-employer contributions for the referenced pension fund.

In 2020, the Company held escrow deposits amounting to \$271 due to certain restructuring agreements. These payments were included in "Prepaid and other current assets" in the Company's Consolidated Balance Sheets. These escrow deposits were paid in 2021.

Based on the most recent information available to it, the Company believes the present value of actuarial accrued liabilities in most of these multi-employer plans exceeds the value of the assets held in trust to pay benefits. Moreover, if the Company were to exit certain markets or otherwise cease making contributions to these funds, the Company could trigger a withdrawal liability. Any adjustment for withdrawal liability will be recorded when it is probable that a liability exists and it can be reasonably estimated.

The Company also contributes to various other multi-employer benefit plans that provide health and welfare benefits to active and retired participants. Total contributions made by the Company to these other multi-employer health and welfare plans were approximately \$1,129 in 2022, \$1,197 in 2021, and \$1,262 in 2020.

16. PROPOSED MERGER WITH ALBERTSONS COMPANIES, INC.

As previously disclosed, on October 13, 2022, the Company entered into a merger agreement with Albertsons pursuant to which all of the outstanding shares of Albertsons common and preferred stock (on an as converted basis) automatically will be converted into the right to receive \$34.10 per share, subject to certain reductions described below. This price implies a total enterprise value of approximately \$24,600, including the assumption of approximately \$4,700 of Albertsons net debt.

In connection with obtaining the requisite regulatory clearance necessary to consummate the transaction, the Company and Albertsons expect to make store divestitures. Subject to the outcome of the divestiture process and as described in the merger agreement, Albertsons is prepared to establish an Albertsons subsidiary (“SpinCo”). SpinCo would be spun-off to Albertsons shareholders immediately prior to the closing of the merger and operate as a standalone public company. The Company and Albertsons have agreed to work together to determine which stores, if any, would comprise SpinCo, as well as the pro forma capitalization of SpinCo. The per share cash purchase price of \$34.10 payable to Albertsons shareholders in the merger would be reduced by an amount equal to (i) \$6.85, which is the per share amount of a special pre-closing cash dividend that was paid on January 20, 2023 to Albertsons shareholders of record as of October 24, 2022 plus (ii) three times the four-wall adjusted EBITDA for the stores contributed to SpinCo., if any, divided by the number of shares of Albertsons common stock (including shares of Albertsons common stock issuable upon conversion of Albertsons preferred stock) outstanding as of the record date for the spin-off. The Company and Albertsons continue to work to determine whether any stores will be contributed to SpinCo. The current adjusted per share cash purchase price is expected to be \$27.25, pending determination of any required adjustments for SpinCo.

In connection with the merger agreement, on October 13, 2022, the Company entered into a commitment letter with certain lenders pursuant to which the lenders have committed to provide a \$17,400 senior unsecured bridge term loan facility, which, if entered into, would mature 364 days after the closing date of the merger. The commitments are intended to be drawn to finance the merger with Albertsons only to the extent the Company does not arrange for alternative financing prior to closing. As alternative financing for the merger is secured, the commitments with respect to the bridge term loan facility under the commitment letter will be reduced. Upfront fees with respect to the bridge term loan facility are included in “Financing fees paid” in the Company’s Consolidated Statements of Cash Flows and will be recognized as operating, general and administrative expense in the Company’s Consolidated Statements of Operations over the commitment period.

On November 9, 2022, the Company executed a term loan credit agreement with certain lenders pursuant to which the lenders committed to provide, contingent upon the completion of the merger with Albertsons and certain other customary conditions to funding, (1) senior unsecured term loans in an aggregate principal amount of \$3,000 maturing on the third anniversary of the merger closing date and (2) senior unsecured term loans in an aggregate principal amount of \$1,750 maturing on the date that is 18 months after the merger closing date (collectively, the “Term Loan Facilities”). Borrowings under the Term Loan Facilities will be used to pay a portion of the consideration and other amounts payable in connection with the merger with Albertsons. The entry into the term loan credit agreement reduces the commitments under the Company’s \$17,400 bridge facility commitment by \$4,750. Borrowings under the Term Loan Facilities will bear interest at rates that vary based on the type of loan and the Company’s debt rating. In addition to the sources of financing described above, the Company expects to finance the transaction with senior notes issuances, borrowings under its commercial paper program, bank credit facility capacity and cash on hand.

The agreement provides for certain termination rights for the Company and Albertsons, including if the closing does not occur on or prior to January 13, 2024 (the “Outside Date”), provided that the Outside Date may be extended by either party for up to 270 days in the aggregate. The Company will be obligated to pay a termination fee of \$600 if the merger agreement is terminated by either party in connection with the occurrence of the Outside Date, and, at the time of such termination, all closing conditions other than regulatory approval have been satisfied. The transaction is expected to close in early 2024, subject to the receipt of required regulatory clearance and other customary closing conditions.

17. RECENTLY ISSUED ACCOUNTING STANDARDS

In September 2022, the FASB issued ASU No. 2022-04, "Liabilities - Supplier Finance Programs (Subtopic 405-50): Disclosure of Supplier Finance Program Obligations". This guidance requires annual and interim disclosures for entities that use supplier finance programs in connection with the purchase of goods and services. These amendments are effective for fiscal years beginning after December 15, 2022, except for the amendment on roll forward information, which is effective for fiscal years beginning after December 15, 2023. The Company is currently assessing the effect that adoption of this guidance will have on its Consolidated Financial Statements.

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE.

None.

ITEM 9A. EVALUATION OF DISCLOSURE CONTROLS AND PROCEDURES.

As of January 28, 2023, our Chief Executive Officer and Chief Financial Officer, together with a disclosure review committee appointed by the Chief Executive Officer, evaluated the Company's disclosure controls and procedures. Based on that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that the Company's disclosure controls and procedures were effective as of January 28, 2023.

CHANGES IN INTERNAL CONTROL OVER FINANCIAL REPORTING

The Company is in the process of implementing a broad, multi-year, technology transformation project to modernize mainframe, middleware and legacy systems to achieve better process efficiencies across customer service, merchandising, sourcing, payroll and accounting through the use of various solutions. Implementation of new accounting ERP modules for general ledger, accounts receivable, accounts payable, fixed assets and a new indirect procurement module were implemented at the beginning of the first quarter of 2021. In the third quarter of 2022, a new payroll module was implemented. Additional phases of the project will continue to be implemented over the next several years. As of January 28, 2023, there have been no material additional implementations of modules since the third quarter of 2022. As the Company's technology transformation project continues, the Company continues to emphasize the maintenance of effective internal controls and assessment of the design and operating effectiveness of key control activities throughout development and deployment of each phase and will evaluate as additional phases are deployed.

There were no changes in Kroger's internal control over financial reporting that materially affected, or were reasonably likely to materially affect, Kroger's internal control over financial reporting during the quarter ended January 28, 2023.

MANAGEMENT'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING

Management is responsible for establishing and maintaining adequate internal control over financial reporting for the Company. With the participation of the Chief Executive Officer and the Chief Financial Officer, our management conducted an evaluation of the effectiveness of our internal control over financial reporting based on the framework and criteria established in *Internal Control — Integrated Framework (2013)*, issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on the evaluation, management has concluded that the Company's internal control over financial reporting was effective as of January 28, 2023.

The effectiveness of the Company's internal control over financial reporting as of January 28, 2023, has been audited by PricewaterhouseCoopers LLP, an independent registered public accounting firm, as stated in their report, which can be found in Item 8 of this Form 10-K.

ITEM 9B. OTHER INFORMATION.

None.

ITEM 9C. DISCLOSURE REGARDING FOREIGN JURISDICTIONS THAT PREVENT INSPECTIONS.

Not applicable.

PART III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE.

Our board of directors has adopted The Kroger Co. Policy on Business Ethics, applicable to all officers, employees and directors, including Kroger's principal executive, financial and accounting officers. The Policy on Business Ethics is available on our website at ir.kroger.com under Investors – Governance – Policy on Business Ethics. A copy of the Code of Ethics is available in print free of charge to any shareholder who requests a copy. Shareholders may make a written request to Kroger's Secretary at our executive offices at 1014 Vine Street, Cincinnati, Ohio 45202. We intend to satisfy the disclosure requirement regarding any amendment to, or a waiver from, a provision of the Policy on Business Ethics for our principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions, by posting such information on our website.

The information required by this Item 10 with respect to executive officers is included within Item 1 in Part I of this Annual Report on Form 10-K under the caption "Information about our Executive Officers." The information required by this Item not otherwise set forth in Part I above or in this Item 10 of Part III is set forth under the headings Election of Directors, Information Concerning the Board of Directors- Committees of the Board, Information Concerning the Board of Directors- Audit Committee and Delinquent 16(a) Reports, if required, in the definitive proxy statement to be filed by the Company with the Securities and Exchange Commission within 120 days after the end of the fiscal year 2022 (the "2023 proxy statement") and is hereby incorporated by reference into this Form 10-K.

ITEM 11. EXECUTIVE COMPENSATION.

The information required by this Item is set forth in the sections entitled Compensation Discussion and Analysis, Compensation Committee Report, and Compensation Tables in the 2023 proxy statement and is hereby incorporated by reference into this Form 10-K.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS.

The following table provides information regarding shares outstanding and available for issuance under our existing equity compensation plans:

Equity Compensation Plan Information

Plan Category	(a) Number of securities to be issued upon exercise of outstanding options, warrants and rights ⁽¹⁾	(b) Weighted-average exercise price of outstanding options, warrants and rights ⁽¹⁾	(c) Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a))
Equity compensation plans approved by security holders	20,021,688	\$ 30.81	53,470,441
Equity compensation plans not approved by security holders	—	\$ —	—
Total	20,021,688	\$ 30.81	53,470,441

(1) The total number of securities reported includes the maximum number of common shares, 3,383,338, that may be issued under performance units granted under our long-term incentive plans. The nature of the awards is more particularly described in the Compensation Discussion and Analysis section of the definitive 2023 proxy statement and is hereby incorporated by reference into this Form 10-K. The weighted-average exercise price in column (b) does not take these performance unit awards into account. Based on historical data, or in the case of the awards made in 2020 through 2022 and earned in 2022 the actual payout percentage, our best estimate of the number of common shares that will be issued under the performance unit grants is approximately 3,872,462.

The remainder of the information required by this Item is set forth in the section entitled Beneficial Ownership of Common Stock in the 2023 proxy statement and is hereby incorporated by reference into this Form 10-K.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE.

The information required by this Item is set forth in the sections entitled Related Person Transactions and Information Concerning the Board of Directors-Independence in the 2023 proxy statement and is hereby incorporated by reference into this Form 10-K.

ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES.

The information required by this Item is set forth in the section entitled Ratification of the Appointment of Kroger's Independent Auditor in the 2023 proxy statement and is hereby incorporated by reference into this Form 10-K.

PART IV

ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES.

(a)1.† Financial Statements:
Report of Independent Registered Public Accounting Firm (PCAOB ID 238)
Consolidated Balance Sheets as of January 28, 2023 and January 29, 2022
Consolidated Statements of Operations for the years ended January 28, 2023, January 29, 2022 and January 30, 2021
Consolidated Statements of Comprehensive Income for the years ended January 28, 2023, January 29, 2022 and January 30, 2021
Consolidated Statements of Cash Flows for the years ended January 28, 2023, January 29, 2022 and January 30, 2021
Consolidated Statement of Changes in Shareholders' Equity for the years ended January 28, 2023, January 29, 2022 and January 30, 2021
Notes to Consolidated Financial Statements

(a)2. Financial Statement Schedules:
There are no Financial Statement Schedules included with this filing for the reason that they are not applicable or are not required or the information is included in the financial statements or notes thereto.

(a)3.(b) Exhibits

- 2.1 Agreement and Plan of Merger, dated as of October 13, 2022, by and among the Company, Parent and Merger Sub, is hereby incorporated by reference to Exhibit 2.1 of the Company's 8-K filed with the SEC on October 14, 2022.
- 3.1 Amended Articles of Incorporation are hereby incorporated by reference to Exhibit 3.1 of the Company's Quarterly Report on Form 10-Q for the quarter ended May 22, 2010, as amended by the Amendment to Amended Articles of Incorporation, which is hereby incorporated by reference to Exhibit 3.1 of the Company's Quarterly Report on Form 10-Q for the quarter ended May 23, 2015.
- 3.2 The Company's Regulations are hereby incorporated by reference to Exhibit 3.1 of the Company's Current Report on Form 8-K filed with the SEC on June 27, 2019.
- 4.1 Instruments defining the rights of holders of long-term debt of the Company and its subsidiaries are not filed as Exhibits because the amount of debt under each instrument is less than 10% of the consolidated assets of the Company. The Company undertakes to file these instruments with the SEC upon request.
- 4.2 Description of Securities. Incorporated by reference to Exhibit 4.2 of the Company's Annual Report on Form 10-K for the fiscal year ended February 1, 2020.
- 10.1* The Kroger Co. Deferred Compensation Plan for Independent Directors. Incorporated by reference to Exhibit 10.2 of the Company's Annual Report on Form 10-K for the fiscal year ended January 30, 2016.
- 10.2* The Kroger Co. Executive Deferred Compensation Plan. Incorporated by reference to Exhibit 10.4 of the Company's Annual Report on Form 10-K for the fiscal year ended January 29, 2005.
- 10.3* The Kroger Co. 401(k) Retirement Savings Account Restoration Plan. Incorporated by reference to Exhibit 10.4 of the Company's Annual Report on Form 10-K for the fiscal year ended February 3, 2007.
- 10.4* The Kroger Co. Supplemental Retirement Plans for Certain Retirement Benefit Plan Participants. Incorporated by reference to Exhibit 10.6 of the Company's Annual Report on Form 10-K for the fiscal year ended February 3, 2007.
- 10.5* The Kroger Co. Employee Protection Plan dated January 13, 2017. Incorporated by reference to Exhibit 10.5 of the Company's Annual Report on Form 10-K for the fiscal year ended January 28, 2017.
- 10.6 Term Loan agreement, dated as of November 9, 2022, by and among The Kroger Co., the lenders from time to time party thereto, and Citibank, N.A., as administrative agent for the lenders, incorporated by reference to Exhibit 10.1 of the Company's Current Report on Form 8-K filed with the SEC on November 10, 2022.

10.7 Amendment No. 1 to Credit Agreement, dated as of November 9, 2022, by and among The Kroger Co., the lenders party thereto, and Bank of America, N.A., as paying agent to the Amended and Restated Credit Agreement dated July 6, 2021, incorporated by reference to Exhibit 10.2 of the Company's Current Report on Form 8-K filed with the SEC on November 10, 2022.

10.8 The Kroger Co. 2008 Long-Term Incentive and Cash Bonus Plan. Incorporated by reference to Exhibit 4.2 of the Company's Form S-8 filed with the SEC on June 26, 2008.

10.9 The Kroger Co. 2011 Long-Term Incentive and Cash Bonus Plan. Incorporated by reference to Exhibit 4.2 of the Company's Form S-8 filed with the SEC on June 23, 2011.

10.10 The Kroger Co. 2014 Long-Term Incentive and Cash Bonus Plan. Incorporated by reference to Exhibit 4.2 of the Company's Form S-8 filed with the SEC on July 29, 2014.

10.11* The Kroger Co. 2019 Long-Term Incentive Plan. Incorporated by reference to Exhibit 99.1 of the Company's Form S-8 filed with the SEC on June 28, 2019.

10.12* Form of Restricted Stock Grant Agreement under Long-Term Incentive Cash Bonus Plans. Incorporated by reference to Exhibit 10.11 of the Company's Annual Report on Form 10-K for the fiscal year ended February 1, 2020.

10.13* Form of Restricted Stock Grant Agreement under Long-Term Incentive and Cash Bonus Plans. Incorporated by reference to Exhibit 10.9 of the Company's Annual Report on Form 10-K for the fiscal year ended February 3, 2007.

10.14* Form of Non-Qualified Stock Option Grant Agreement under Long-Term Incentive and Cash Bonus Plan. Incorporated by reference to Exhibit 10.13 of the Company's Annual Report on Form 10-K for the fiscal year ended February 1, 2020.

10.15* Form of Non-Qualified Stock Option Grant Agreement under Long-Term Incentive and Cash Bonus Plans. Incorporated by reference to Exhibit 10.1 of the Company's Quarterly Report on Form 10-Q for the quarter ended May 24, 2008.

10.16* Form of Performance Unit Award Agreement under Long-Term Incentive and Cash Bonus Plans. Incorporated by reference to Exhibit 10.15 of the Company's Annual Report on Form 10-K for the fiscal year ended February 1, 2020.

10.17* Form of Restricted Stock Grant Agreement under Long-Term Incentive and Cash Bonus Plan. Incorporated by reference to Exhibit 10.16 of the Company's Annual Report on Form 10-K for the fiscal year ended January 30, 2021.

21.1 Subsidiaries of the Registrant.

23.1 Consent of Independent Registered Public Accounting Firm.

24.1 Powers of Attorney.

31.1 Rule 13a-14(a)/15d-14(a) Certification.

31.2 Rule 13a-14(a)/15d-14(a) Certification.

32.1 Section 1350 Certifications.

101.INS XBRL Instance Document - the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.

101.SCH XBRL Taxonomy Extension Schema Document.

101.CAL XBRL Taxonomy Extension Calculation Linkbase Document.

101.DEF XBRL Taxonomy Extension Definition Linkbase Document.

101.LAB XBRL Taxonomy Extension Label Linkbase Document.

101.PRE XBRL Taxonomy Extension Presentation Linkbase Document.

104 Cover Page Interactive Data File - The cover page interactive data file does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.

* Management contract or compensatory plan or arrangement.

† Filed herewith.

ITEM 16. FORM 10-K SUMMARY.

Not Applicable.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Company has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

THE KROGER CO.

Dated: March 28, 2023

/s/ W. Rodney McMullen

W. Rodney McMullen

Chairman of the Board and Chief Executive Officer
(principal executive officer)

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Company and in the capacities indicated on the 28th of March 2023.

/s/ Gary Millerchip

Gary Millerchip

Senior Vice President and Chief Financial Officer
(principal financial officer)

/s/ Todd A. Foley

Todd A Foley

Group Vice President & Corporate Controller
(principal accounting officer)

*

Nora A. Aufreiter

*

Director

Kevin M. Brown

*

Director

Elaine L. Chao

*

Director

Anne Gates

*

Director

Karen M. Hoguet

*

Chairman of the Board and Chief Executive Officer

W. Rodney McMullen

*

Director

Clyde R. Moore

*

Director

Ronald L. Sargent

*

Director

J. Amanda Sourry Knox

*

Director

Mark S. Sutton

*

Director

Ashok Vemuri

* By: /s/ Christine S. Wheatley

Christine S. Wheatley

Attorney-in-fact

SHAREHOLDERS: EQ Shareowner Services is Registrar and Transfer Agent for Kroger's common shares. For questions concerning payment of dividends, changes of address, etc., individual shareholders should contact:

EQ Shareowner Services
P. O. Box 64854
Saint Paul, MN 55164-
0854 Toll Free 1-855-
854-1369

Shareholder questions and requests for forms available on the Internet should be directed to: www.shareowneronline.com.

FINANCIAL INFORMATION: Call (513) 762-1220 (option "1") to request printed financial information, including Kroger's most recent report on Form 10-Q or 10-K, or press release. Written inquiries should be addressed to Shareholder Relations, The Kroger Co., 1014 Vine Street, Cincinnati, Ohio 45202-1100. Information also is available on Kroger's corporate website at ir.kroger.com.

Kroger has a variety of plans under which employees may acquire common shares of Kroger. Employees of Kroger and its subsidiaries own shares through a profit sharing plan, as well as 401(k) plans and a payroll deduction plan called the Kroger Stock Exchange. If employees have questions concerning their shares in the Kroger Stock Exchange, or if they wish to sell shares they have purchased through this plan, they should contact:

Computershare Plan
Managers PO Box 505039
Louisville, KY 40233-
5039
Phone 800 872 3307

Questions regarding Kroger's 401(k) plans should be directed to the employee's Human Resources Department or 1-800-2KROGER. Questions concerning any of the other plans should be directed to the employee's Human Resources Department.

E X E C U T I V E O F F I C E R S

Mary Ellen Adcock Senior Vice President, Operations	Carin L. Fike Vice President and Treasurer	Timothy A. Massa Senior Vice President and Chief People Officer
Stuart W. Aitken Senior Vice President and Chief Merchandising & Marketing Officer	Todd A. Foley Group Vice President, Controller	W. Rodney McMullen Chairman of the Board and Chief Executive Officer
Gabriel Arreaga Senior Vice President	Valerie L. Jabbar Senior Vice President	Gary Millerchip Senior Vice President and Chief Financial Officer
Yael Cosset Senior Vice President and Chief Information Officer	Kenneth C. Kimball Senior Vice President	Christine S. Wheatley Senior Vice President, General Counsel and Secretary

O P E R A T I N G U N I T H E A D S

Jake Cannon Louisville Division	Colleen Juergensen Central Division	Ann M. Reed Cincinnati Division
Micheal E. Cristal Delta Division	Todd A. Kammeyer Fred Meyer Stores	David W. Richard QFC
Tammy DeBoer Harris Teeter	Bryan H. Kaltenbach Food 4 Less	Thomas L. Schwilke Ralphs
Ken DeLuca Michigan Division	Joe Kelley King Soopers/City Market	Keith Shoemaker Dallas Division
Steve Dreher Dillons Food Stores	Kenneth C. Kimball Smith's	Victor Smith Atlanta Division
Monica Garnes Fry's Food & Drug	Colleen R. Lindholz Kroger Health	Jeff B. Talbot Kroger Personal Finance
Laura Gump Houston Division	Michael Marx Roundy's	Nicholas Tranchina Murray's Cheese
Sonya Hostetler Nashville Division	Lori Raya Mid-Atlantic Division	Dana Zurcher Columbus Division
Erik Jensen Home Chef		



by **Kroger**[®]

www.thekrogerco.com

The Kroger Co.

1014 Vine Street · Cincinnati, Ohio 45202 · 513-762-4000



PX6009-212



KROGER CORPORATE > ABOUT KROGER > HISTORY



The History of Kroger

Our story began in 1883 when Barney Kroger invested his life savings of \$372 to open a single grocery store at 66 Pearl Street in downtown Cincinnati. He had a simple motto: "Be particular. Never sell anything you would not want yourself."

Nearly 140 years later, the Kroger Company is still particular about how we serve customers and community, how we innovate and who we hire. As the nation's largest grocer with nearly 2,800 stores in 35 states operating under 28 different names, we meet our customers' changing needs by making fresh food accessible to all. Our current practices are rooted in Barney Kroger's early efforts to serve customers through food freshness, low prices and innovation—fundamentals that remain at the heart of our Kroger mission today. This is the story of all the people in our history who helped change the way we shop. People who continue to make a difference in the lives of our customers every day.

A History of Innovation Inspires Today's Shopping Experience

Barney was a born innovator—always looking for new ways to serve customers. In the early 1900s, grocers typically purchased bread from local bakeries then resold it. Bread, Barney reasoned, was the most basic of staples and something he sold a lot of. He realized if he could bake the bread himself, he'd cut his costs and offer customers a fresher loaf at a lower price.

Innovation #1: One-Stop Shopping

Early on, people had to shop a butcher, a baker, and a grocer. Barney knew it would be simpler and more convenient if they could buy everything at one stop from one store, so 1901, Kroger became the first grocer in the country to establish its own bakeries, followed by integration of the meat department.

Today one-stop shopping has grown into something that would make Barney smile—a complete shopping universe with endless variety, in-store dining, wine and cheese shops, sushi and even Starbucks.



Innovation #2: Private Label

Manufacturing

Ever the innovator, Barney saw the potential in making his own products. When farmers rolled into town with a harvest bounty of cabbage, Barney saw it was cheap and he bought a lot; more than he could sell—but he had an idea! He took that cabbage home to his mother, and she turned it into lots of delicious sauerkraut. He knew his German Cincinnati customers would love it, and he was right.

The little manufacturing effort born in Mrs. Kroger's kitchen was the beginning of something big—today, we're the largest food manufacturing business in America. Kroger operates our 35 food manufacturing facilities that make everything from bread, cookies and milk to soda pop, ice cream and peanut butter. About 40% of private-label items are made at one of our Kroger manufacturing plants. They account for 26% of Kroger's total store dollar sales, giving our company a significant strategic advantage. We offer an array of private label brands at every price point. With dozens of manufacturing facilities and distribution centers around the country, we also have one of the largest privately-owned truck fleets in the country.

Innovation #3: Grocery Delivery

What began with a horse named Dan, has grown into a national grocery delivery service. In his early days, Barney would saddle up his horse Dan to his wagon and deliver groceries to customer around the greater Cincinnati, Ohio area.

Today, collaborative work with specialized technology partners gives us the expertise to offer our customers even more. Kroger has partnered with Nuro (Robotics), Kitchen United (food delivery systems), Microsoft, and Ocado (a world leader in grocery ecommerce technology) to help optimize an anything, anytime, anywhere customer experience. Exciting new Drone Express technology allows delivery not only to a street address but to the exact location of a customer's smartphone. Now, customers will be able to order delivery of picnic supplies to a park, sunscreen to the beach, or condiments to a backyard cookout! We also partner with DoorDash to deliver Kroger Sushi to customers.

Innovation #4: Product Quality Monitoring & Testing

Throughout our history, we have been both innovator and pioneer in the food retail industry. During the 1930s, we were the first grocery chain to routinely monitor product quality and scientifically test foods.

In 2012, the company's long-standing commitment to food safety and quality earned it the highly prestigious Black Pearl Award, awarded to only one company each year by the International Association for Food Protection.

Innovation #5: The Electronic Scanner

In 1972, Kroger became the first grocery retailer in America to test an electronic scanner. Visitors from around the country attended the event in a suburban Cincinnati store. Technology is key at store operations today. Kroger pioneered QueVision, a faster checkout program that has reduced the time customers wait in line to check out, on average, from four minutes in 2010 to less than 30 seconds in stores today.



With nearly 2,800 stores in 35 states under two dozen banners and annual sales of more than \$132.5 billion, Kroger today ranks as one of the world's largest retailers.



Bigger Stores, Better Services

In the 1980s, our supermarkets evolved into combination stores, adding pharmacy, beauty and health care to a growing store selection. Our stores today offer everything from basic grocery staples to organic vegetables, natural foods, and hot meals ready to eat. We operate more than 2,255 in-store pharmacies that fill 238 million prescriptions a year. Floral shops boom with enough blooms to make us the world's largest florist. And fuel centers in more than 1,545 locations let our customers gas up and save where they shop.

Our marketplace stores have elevated one-stop shopping convenience to a new level. Multi-department stores under the Fred Meyer banner are huge at over 161,000 square feet. We offer a store format for every kind of shopper, including price impact stores and fine jewelry stores.

Growing by Leaps, Bounds & Mergers

Mergers have played a key role in our growth. In 1983, 100 years after our company's founding, Kroger merged with Dillon Companies Inc. in Kansas to become a coast-to-coast operator of food, drug and convenience stores. This brought not only Dillon's, but also King Soopers, Fry's, City Market and Gerbes into the Kroger family.

The biggest merger in our history came in 1999, when we merged with Fred Meyer, Inc. (owner of Smith's Ralphs, Food 4 Less and QFC) in a \$13 billion deal that created a supermarket chain with the broadest geographic coverage and the widest variety of formats in the food retailing industry. That year, we also merged with JayC, Owens Market and Pay Less.

And the mergers didn't stop there. In 2001, we merged with Baker's, followed by mergers with Harris Teeter in 2014 and Roundy's, Pick 'N Save, Metro Markets and Mariano's in 2015. This expanded our reach through the Mid-Atlantic states and the northern Mid-West.

We've also expanded our business with mergers and partnerships outside the brick and mortar of a grocery store. In 2014, we merged with Vitacost.com, one of the largest pure e-commerce companies in the nutrition and healthy living market. Their platform accelerated our entry into the e-commerce space by several years, helping us serve customers through ship-to-home orders and expanding our reach into all 50 states and internationally. In 2018, we merged with Home Chef to make dinner easier for millions of Americans and partnered with Ocado to revolutionize home grocery delivery.

Thriving Together Today & Tomorrow: Sustainability

Innovation is also at the heart of Kroger's sustainability efforts. In the mid-2000s, we created a process to rescue safe, edible fresh products and donate them quickly to local food banks. This model has been replicated by other retailers and today fresh products make up more than half of the food distributed nationwide by Feeding America, America's largest food bank network. Today, we partner with local resources like Last Mile Food Rescue in Cincinnati to get unused food from restaurants and institutions into areas of food scarcity.

The goal of our Environmental, Social and Governance (ESG) strategy is to achieve lasting positive impacts through a shared value framework. It benefits people and our planet and creates more resilient systems for our future. The vision for this initiative is: We imagine a world where everyone is Thriving Together. The centerpiece of our ESG strategy is the Zero Hunger | Zero Waste social and environmental impact plan. Introduced four years ago, Zero Hunger | Zero Waste is an industry-leading platform for collective action and systems change at global, national and local levels.

More than a century ago, Barney Kroger laid the foundation for what today is one of the largest companies in America. The business principles that made the first Kroger store successful in 1883—service, selection, value, and a belief that people are what matter most—continue to guide our company's operations today. As America's grocer, we take pride in bringing diverse teams with a passion for food and people together with one purpose—to feed the human spirit.

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On the misuse of regressions of price on the HHI in merger review

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ABSTRACT

The article explains why regressions of price on HHI should not be used in merger review. Both price and HHI are equilibrium outcomes determined by demand, supply, and the factors that drive them. Thus, a regression of price on the HHI does not recover a causal effect that could inform the likely competitive effects of a merger. Nonetheless, economic theory is consistent with the legal presumption that a merger is likely to have adverse competitive effects if it occurs in a concentrated market and makes that market more concentrated.

KEYWORDS: horizontal mergers, Herfindahl-Hirschman Index, regression analysis, HHI

JEL CLASSIFICATIONS: L11, L40, L41

I. INTRODUCTION

Economists widely agree that absent sufficient efficiencies or other offsetting factors, mergers that increase concentration substantially are likely to be anticompetitive, whether through unilateral or coordinated effects.² The reason is that economic theory indicates that competition among firms leads to lower prices.³ The joint profit of any two competitors is higher if they both raise price, yet neither would do so unilaterally because it would simply lose sales to the competitor. A merger between competitors aligns incentives such that price increases or output restrictions can be implemented profitably, to the detriment of consumers and (often) total welfare.

Economic theory also indicates that the magnitude of these adverse price effects tends to be larger, holding everything else equal, the larger is the increase in concentration caused by the merger. Analogously, greater efficiencies are required to offset adverse price effects if the merger causes a larger increase in concentration. As market concentration is more easily measured than the post-merger equilibrium (which is unobserved *ex ante*), the use of concentration screens in the antitrust review of mergers is sensible and economically well founded. Thus, as economists, we support the established legal presumption that a merger that significantly increases market concentration in an already concentrated market is likely to result in adverse competitive effects.⁴

2 For example, Volker Nocke and Michael Whinston, 'Concentration Screens for Horizontal Mergers', Working Paper 27533, National Bureau of Economic Research (July 2020) <<http://www.nber.org/papers/w27533>> accessed 26 April 2022; Herbert J Hovenkamp and Carl Shapiro, 'Horizontal Mergers, Market Structure, and Burdens of Proof' (2018) 127 *Yale L J* 1996; John Kwoka, 'The Structural Presumption and the Safe Harbor in Merger Review: False Positives or Unwarranted Concerns?' (2017) 8 *Antitrust Law J* 837. The focus of this article is on horizontal mergers, i.e. mergers between firms that compete with one another. Unilateral effects relate to the effects of mergers that arise 'simply by eliminating the competition between the merging parties' and co-ordinated effects related to the effects of mergers that arise by increasing 'coordinated, accommodating, or inter-dependent behavior among rivals' (Horizontal Merger Guidelines, 2).

3 We use the term price for conciseness in exposition, but it should be understood that we are referring to more generally 'terms of trade' that are outcomes of the equilibrium market process, and that may include, for example, prices, auxiliary fees, qualities, product variety, and service.

4 *United States v Philadelphia National Bank*, 374 US 321, 362 (1963). ('[A] merger which produces a firm controlling an undue percentage share of the relevant market, and results in a significant increase in the concentration of firms in that market, is so inherently likely to lessen competition substantially that it must be enjoined in the absence of evidence clearly showing that the merger is not likely to have such

The Horizontal Merger Guidelines of the US Department of Justice and Federal Trade Commission (2010) [hereinafter 2010 Horizontal Merger Guidelines], in line with prior merger guidelines, continues the practice of using the Herfindahl–Hirschman Index (HHI) as a measure of market concentration. Courts too have adopted the HHI as the standard measure of concentration.⁵ As an index, the HHI has properties that make it suitable for this purpose, and we agree that it is a useful measure of market concentration.

Given results from economic theory, and the role that the HHI (appropriately) plays in merger review, it might seem natural to determine whether prices and the HHI are positively related for a given set of products, comparing across different geographic markets or time periods. This might be implemented, for example, by using a simple regression of price on the HHI.⁶ However, for reasons that we elaborate on below, regressions of price on the HHI should not be interpreted as establishing causation. That is, they do not inform how a change in concentration from a merger would affect prices. Empirical analyses based on such regressions of price on the HHI are uninformative about the likelihood of any adverse competitive effects from a merger. Courts and other policy-makers therefore should not rely on regressions of price on the HHI for the purposes of antitrust merger review.

In this article, we explain why regressions of price on the HHI do not predict the competitive effects of mergers and should not be used in merger review. The main point is that analyses based on regressions of price on the HHI mistake correlation for causation. There are many reasons why the HHI can vary across markets or time periods. Whether the HHI is positively or negatively correlated with price depends on what gives rise to the variation across the markets or periods. As we develop, if a small firm reduces its costs, then both its price and the HHI in its market may decrease, creating a positive correlation between price and the HHI. But if instead a large firm reduces its costs, then its price may decrease and the HHI in its market may increase, creating a negative correlation. Yet whether the large firm or the small firm benefits from a cost reduction has little bearing on the competitive effects of a merger (which indeed might not involve either firm).⁷

The underlying problem with regressions of price on the HHI is that the relationship between price and the HHI is not causal. Instead, both are equilibrium

anticompetitive effects.') At least one of the coauthors of this article believes that market concentration is better used to define a safe harbour, as proposed in Dennis Carlton and Mark Israel, 'Effects on the 2010 Horizontal Merger Guidelines on Merger Review: Based on Ten Years of Practical Experience' (2021) 58 *Rev Ind Organ* 213.

5 See Carl Shapiro and Howard Shelanski, 'Judicial Response to the 2010 Horizontal Merger Guidelines' (2021) 58 *Rev Ind Organ* 51.

6 By regression we mean ordinary least squares (OLS) regression, unless explicitly stated otherwise. Economists often use regression analysis to examine how one variable (the 'dependent variable') changes with a set of possible determinants (the 'independent variables'). In the regression of price on HHI, price is the dependent variable and the HHI is an independent variable. A positive coefficient on the HHI indicates a positive correlation between price and the HHI, a negative coefficient indicates a negative correlation, and a coefficient of zero indicates no correlation.

7 To be clear, correlations between price and the HHI that arise due to demand or cost differences across time periods or geographic regions are uninformative about the competitive effects of a merger. A correlation that arises due to prior mergers, or due to prior entry or exit events, can be an exception that provides information, with some caveats. See Section IV for a discussion.

outcomes that are determined by demand, supply, and the factors that drive them. Thus, a regression of price on the HHI does not show the sort of causal effect that would be helpful in predicting the competitive effects of a merger.

By contrast, economic theory does support a causal impact of *mergers* on price. Absent offsetting efficiencies, a merger between competitors creates incentives for the merging firms to raise prices and reduce output. Economic theory provides support for the established legal presumption that a merger in a market is likely to have adverse competitive effects when it occurs in a concentrated market and makes it more concentrated (ie increases the HHI), regardless of whether it is possible to find an empirical relationship between price and the HHI in data.

The article proceeds in four sections. In Section II, we define the HHI, highlight its properties, and describe its role in merger review. In Section III, we provide a numerical example in which the empirical price–HHI relationship is uninformative about the competitive effects of mergers and explain why the example has broader significance for understanding the relationship between prices and the HHIs. In Section IV, we discuss the econometric problem inherent with regressions of price on the HHI, building on the numerical example. Finally, we conclude with discussions about how HHI analyses are useful in merger review, and the types of econometric analyses that can be helpful in merger review.

II. HHI AND THE ECONOMICS OF HORIZONTAL MERGERS

Economic theory indicates that, absent sufficient efficiencies, mergers among competitors create incentives for the merging firms, and possibly its rivals, to raise prices or reduce output. The purpose of merger review is to identify and prevent mergers that are more likely to have such anticompetitive effects. An analysis of market shares and market concentration is standard in merger review because it can help illuminate the potential for anticompetitive effects.⁸

A commonly used summary measure of market shares and concentration is the HHI, which is calculated as the sum of squared market shares of all the firms in the market.⁹ The HHI can take values ranging from 0 to 10,000, with the former corresponding to a fragmented market with infinitesimal firms, and the latter to monopoly. All else equal, a decrease in the number of firms leads to a higher HHI. However, the HHI can increase if, for a given number of firms, the market shares of the larger firms increase.¹⁰ Thus, for example, a market with one large firm and two small firms has a higher HHI than a market with three equally sized firms. Holding the number of firms in the market fixed, the HHI is larger with greater asymmetry among firms' market shares.

The 2010 Horizontal Merger Guidelines state that mergers that generate a post-merger HHI above 2500 and an increase in the HHI by 200 or more 'will be presumed to be likely to enhance market power'.¹¹ HHI thresholds also are described in

⁸ We take as given the existence of a relevant antitrust market. For a discussion of market definition, see the 2010 Horizontal Merger Guidelines, s 4.

⁹ Thus, for a market with three firms and shares of 40%, 30%, and 30%, the HHI is $40^2 + 30^2 + 30^2 = 3400$.

¹⁰ This is also true of other measures of concentration, such as the four-firm concentration index. Thus, while this article focuses on the HHI, our argument extends more broadly.

¹¹ 2010 Horizontal Merger Guidelines, s 5.3. The implied change in the HHI is calculated as twice the multiplicative product of the merging firms' pre-merger market shares. There is some question whether these

the Guidelines of the European Union. The HHIs for these calculations are based on pre-merger market shares. We agree that HHI thresholds can play an important role in merger review.

It can be informative to pair information on the level and increase of the HHI with other evidence, including from business documents, that provide information on market competition, ease of entry, and efficiencies, among other considerations. Measures of upward pricing pressure can also be useful. In some cases, model-based simulation results and econometric studies of previous entry, exit, or mergers can also be useful. However, we exclude from this list regressions of price on the HHI for reasons that we now explain.

III. AN ILLUSTRATIVE EXAMPLE OF MISLEADING PRICE–HHI COMPARISONS

We illustrate the problem with regressions of price on the HHI using a simple numerical example. Consider duopolists (firms 1 and 2) that produce a homogenous product in three distinct geographic markets (regions A, B, and C). Suppose that each duopolist unilaterally chooses its output level (its ‘quantity’) to maximize profit, taking as given the output level of the other firm. The market price in each region for the product decreases with the combined output of the duopolists. Putting aside fixed costs, the profit of each duopolist equals the market price less its marginal cost of production, multiplied by its quantity.

Together, these assumptions constitute the Cournot oligopoly model.¹² Absent sufficient countervailing efficiencies, and focusing on unilateral effects, mergers to monopoly in this context harm consumers because the monopolist finds it profitable to restrict output and increase the market price.¹³ In order to simplify the example, we make the additional assumptions that marginal costs do not change with the level of output, and that demand takes a simple linear form, $P(Q) = 10 - Q$, where $P(Q)$ is the market price and Q is the combined output in the market. [Appendix 1](#) provides generalized expressions for the equilibrium markups, prices and quantities that obtain in this model.

[Table 1](#) summarizes the results of the example. In Region A, which we use as a basis for comparison, suppose both firms have identical marginal costs of 3.00. Given the assumptions already made, this implies market shares of 50 per cent for each firm, a market price of 5.33, and an HHI of 5000.

In Region B, suppose that the marginal costs of the two firms are 4.00 and 3.00, respectively, so that Firm 1 has higher costs than in Region A. This implies market shares of 38 per cent and 62 per cent for the firms, a market price of 5.67, and an HHI of 5288. In Region C, suppose that the marginal costs of the two firms are 1.83 and 3.00, respectively, so that Firm 1 has lower costs than in Region A. This implies

threshold levels are set at an appropriate level. See Steven C Salop and Fiona Scott Morton, ‘The 2010 HMGs Ten Years Later: Where Do We Go from Here?’ (2021) 58 *Rev Ind Organ* 81–101.

12 For a theoretical analysis of mergers under Cournot competition, see Farrell and Shapiro, ‘Horizontal Mergers: An Equilibrium Analysis’ (1990) 80 *Am Econ Rev* 107.

13 Analogous results can be obtained with other standard models, such as that of differentiated-products Bertrand competition. See, for example, Raymond Deneckere and Carl Davidson, ‘Incentives to Form Coalitions with Bertrand Competition’ (1985) 16 *RAND J Econ* 473.

Table 1. The price–HHI relationship with cost variation

	Region A	Region B	Region C	Monopoly
Firm 1's costs	3.00	4.00	1.83	3.00
Firm 2's costs	3.00	3.00	3.00	
Firm 1's share (%)	50	38	62	100
Firm 2's share (%)	50	62	38	
Market price	5.33	5.67	4.94	6.50
Quantity	4.67	4.33	5.06	3.50
HHI	5000	5288	5288	10,000

market shares of 62 per cent and 38 per cent for the firms, a market price of 4.94, and an HHI of 5288.

In each of the three regions, a merger would result in monopoly and would unambiguously raise price. As shown in the last column of the table, if the monopolist's marginal cost is 3.00, then the profit maximizing price is 6.50. Yet the correlation between price and the HHI across regions is ambiguous.¹⁴ An analysis that focuses on regions A and B would suggest that prices and the HHI are positively correlated. The opposite result is obtained with a focus on regions A and C, in which prices and the HHI are negatively correlated, while a comparison of regions B and C suggests no relationship between prices and HHI at all. Finally, a regression of price on the HHI based on the data of all three regions suggests a slightly negative relationship.

In our numerical example, prices and the HHIs vary across markets because of cross-region differences in costs. With Region A as a baseline, the HHI is relatively higher in Regions B and C because the two firms differ in their costs within those regions. However, in Region B the difference arises because Firm 1 has high costs, whereas in Region C the difference arises because Firm 1 has low costs. Because prices increase with costs in this model, whether regions B and C have higher or lower prices than region A depends on *why* costs differ across the regions.

As a general matter, a decrease in the costs of the most efficient firm and an increase in the costs of the least efficient firm naturally will tend to have different effects on prices, even though both increase the HHI by making market shares less symmetric. The same logic would apply to cross-market differences in quality if we included them in our example. This makes the relationship between price and the HHI ambiguous, even in models that have unambiguous predictions about the competitive effects of a merger.

IV. REGRESSIONS OF PRICE ON THE HHI

We now move from the numerical example to a more general discussion of the econometrics underlying regressions of price on the HHI. However, regressions

¹⁴ If we assume that after the merger the merged firm produces all output from its more efficient plant, then the merger would increase prices to 6.50, 6.50, and 5.92 in regions A, B, and C, respectively, and the merger would have to reduce the more efficient plant's marginal costs to 0.66, 1.33, and 0.12, respectively, to offset anticompetitive effects.

simply summarize the correlations present in data, so the logic developed using the numerical example extends. The relationship between price and the HHI that is estimated with regression analysis does not reflect the sort of causal effect that would be helpful in predicting the competitive effects of a merger.

A typical regression of price on the HHI takes the form:

$$P_i = \beta_0 + \beta_1 HHI_i + \beta_2 x_i + \epsilon_i$$

where the subscript i refers to observations (markets and/or time periods), the variables in x_i control for other demand and supply factors, and ϵ_i is an error term. Thus, price is the dependent variable and the HHI is an independent variable. An OLS regression that obtains a positive coefficient on the HHI ($\beta_1 > 0$) indicates a positive correlation between price and the HHI, conditional on the controls, just as a regression that obtains a negative coefficient ($\beta_1 < 0$) indicates a negative correlation between price and the HHI.

The underlying problem with this regression, in econometric parlance, is that the relationship between prices and the HHI is not causal.¹⁵ Both price and the HHI are market equilibrium outcomes. The HHI is calculated from market shares, which are market outcomes determined by demand, supply, and the factors that drive them. Price is likewise an outcome, determined by the same factors. Thus, economic theory indicates that prices and the HHI are jointly determined in equilibrium; there is no causal effect of one on the other. The regression estimate of β_1 can pick up various possible correlations that exist due to variation in the underlying demand and supply factors, but it cannot measure a causal effect that does not exist.¹⁶

This fundamental empirical issue has been widely understood by economists for decades. A seminal paper was Demsetz.¹⁷ The modern empirical articulation of the problem was provided by Bresnahan.¹⁸ A series of alternative methods for evaluating the competitive effects of mergers have been advanced, beginning in the 1980s and continuing through to the present, as discussed (together with voluminous references) in the *Handbook of Industrial Organization*, volumes 3 (2007) and 4 (in process). However, regressions of outcomes, including price, on the HHI have largely been abandoned by Industrial Organization researchers.

15 See, eg, Steven Berry, Martin Gaynor and Fiona Scott Morton, 'Do Increasing Markups Matter? Lessons from Empirical Industrial Organization' (2019) 33(3) *J Econ Perspect* 44. The statement holds whether firms set prices unilaterally to maximize their own profit or collude to maximize joint profit. Although our numerical results focus on the former case, regressions of price on the HHI are also problematic for mergers that may facilitate or exacerbate coordination.

16 For a recent articulation of this problem, see Daniel P O'Brien, 'Price-Concentration Analysis: Ending the Myth, and Moving Forward' (2017) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3008326> accessed 26 April 2022. Furthermore, even putting aside the issue we discuss in this article, if the goal of the analysis is to study whether pre-merger HHI levels are predictive of likely anticompetitive harms, this is the wrong regression to estimate. Instead, one should look at past mergers and examine how the pre-merger HHI and the change in HHI predict post-merger outcomes.

17 Harold Demsetz, 'Industry Structure, Market Rivalry and Public Policy' (1973) 16 *J Law Econ* 1.

18 Timothy Bresnahan, 'Empirical Studies of Industries with Market Power' in Richard Schmalensee and Robert Willig (eds), *The Handbook of Industrial Organization*, Ch 17, vol 2 (North Holland 1989) 1011–57.

Note that the problem here is deeper than the econometric problems that are often called ‘endogeneity’ and ‘simultaneity’. These problems exist when a clear causal path between two variables is posited by the relevant economic theory but the causal factor (on the right side of the regression equation) is either correlated with unobserved factors or, more subtly, is simultaneously determined by the variables (in this case, price) on the left side of the regression. A famous example of simultaneity involves price and quantity, which are simultaneously determined in the classic economic model of supply and demand. There are many possible solutions to the problems of endogeneity and simultaneity. In different contexts, these solutions might include controlling for additional factors in a regression or using what are called instrumental variables. However, these solutions do not solve the problem presented by the regression of price on the HHI. The fundamental problem remains: there is no causal relationship to be estimated. Different methods may pick up different correlations, perhaps complicated ones, but not the sort of causal effect that can be used to predict the effect of a merger.

One might suppose that the variables that control for other factors could resolve the problem. But they cannot. The reason is that some residual variation in price and the HHI must be present after the contribution of control variables has been removed in order to conduct the regression analysis. By definition, this residual variation is due to factors that are not among the control variables. Now a familiar logic applies: the residual factors that create variation in the HHI may happen to raise or lower prices, so either a positive or negative correlation can result. For example, the analyst could perfectly control for all variation in cost conditions. However, if variation in demand factors remains, such that residual variation in price and the HHI exists, then price and the HHI are joint outcomes of that variation, and causal inferences about the effect of mergers cannot be supported. The same result obtains if the analyst controls for demand considerations, or replaces price with ‘quality-adjusted price’, because cost factors then lead price and the HHI to be co-determined.

Some authors propose more sophisticated instrumental variable methods. A discussion of these methods is beyond this short note, but they face the same kinds of problems. First, even if there was a true ‘causal effect’ of the HHI on price, it would be difficult if not impossible to find instrumental variables that satisfy the conditions necessary for their use.¹⁹ Moreover, even if one were to find such instrumental variables, they cannot find a causal effect that does not exist. Bresnahan²⁰ notes that, even given ‘correct’ instrumental variables, one would likely obtain a complicated mixture of supply and demand effects. Bresnahan’s logic follows from the same basic observations that motivate our simple examples above.

A special case arises when the empirical variation in the HHI is driven predominantly by changes in competition, such as past mergers or changes in entry or exit conditions, that have similar competitive effects to a proposed merger. Although the relationship between the HHI and price is still not causal, a correlation in that scenario at least can reflect the impact of the underlying competitive events, and thereby inform the likely impact of a merger on price. Even in this case, however, it can be

19 See Berry, Gaynor and Scott Morton (n 15).

20 Bresnahan (n 18).

more appropriate to analyse directly the impacts on prices of the mergers or entry or exit conditions, rather than their impacts as mediated through the HHI.

Economists have developed more appropriate quantitative methods to determine merger effects, such as structural econometric models and merger retrospectives that more plausibly identify the effects of mergers. Following in the tradition of Bresnahan, and a growing empirical literature, structural econometric models attempt to estimate the true underlying causal effects that determine the effects of proposed mergers on prices. These methods have their own advantages and disadvantages, but they share a necessary attribute: they are designed to reveal causal effects. Regressions of price on HHI are not designed to do so; and, as a result, they typically do not provide credible insight into the price effects of mergers.

V. DISCUSSION

We conclude with a discussion of the appropriate role of the HHI in merger review and the types of regression analyses that can be more informative about the likely competitive effects of proposed mergers.

We have already explained that an understanding of the HHI can help illuminate the competitive effects of mergers. To illustrate why this is the case, we again use a numerical example. We retain the assumptions of Cournot competition, an inverse demand curve of $P(Q) = 10 - Q$, and constant marginal costs of \$3.00. In this new example, we do not change costs. Instead, we consider markets with two, three, four, five, and six competitors. In each market, we consider a merger between two of the competitors and calculate the implied change in the HHI, the percentage price increase, and the percentage reduction in total market quantity, holding costs and demand constant. As in our previous example, we calculate the implied change in the HHI based on the pre-merger market shares of the merging firms.²¹

Table 2 summarizes the results. In the market with two competitors, a merger increases price by 21.88 per cent, reduces total quantity by 25 per cent, and leads to an implied increase in the HHI of 5000, consistent with merger from symmetric

Table 2. Merger price effects and the implied HHI change

	Number of pre-merger competitors				
	Two	Three	Four	Five	Six
Percentage price increase	21.88	12.28	7.95	5.60	4.17
Percentage quantity decrease	25.00	11.11	6.25	4.00	2.78
Implied change in the HHI	5000	2222	1250	800	556

²¹ We calculate the Implied Change in the HHI as $\Delta HHI = 2s_1s_2$ where s_1 and s_2 are the pre-merger market shares of the merging firms. This is an indicator of how much the merger would affect market concentration, but it is not intended to recover the precise change in HHI that would be realized as the market reaches a new, post-merger equilibrium.

duopoly to monopoly. Comparing across columns, mergers in markets with more competitors generate smaller price increases, smaller reductions in quantity, and smaller implied HHI increases. In the market with six competitors, a merger increases price by 4.17 per cent, reduces output by 2.78 per cent, and leads to an implied increase in the HHI of 556.²²

The numerical analysis of these mergers reveals a positive correlation between the merger price effect and the implied change in the HHI. The positive correlation exists because, all else equal, mergers that create a larger implied change in the HHI also tend to create greater incentives for the merging firms to increase price or restrict output. There is an important distinction between these results and the numerical results presented earlier (Section III). Here, the change in the HHI is informative about merger price effects because it reflects the reduction in the number of competitors that would be caused by the merger, and the importance of that lost competition. By contrast, the variation in the HHI examined earlier was driven solely by differences in marginal costs across markets, which have less bearing on the competitive effects of mergers.

We are hardly the first to make the observation that merger price effects are positively correlated with the implied change in the HHI from the merger.²³ Economic theory indicates that, all else equal, the likely magnitude of adverse competitive effects tends to be larger, the larger is the increase in concentration caused by the merger. Analogously, greater efficiencies typically are required to offset adverse competitive effects if the merger causes a larger increase in concentration, all else equal. Because pre-merger market shares are more easily measured and analysed than the post-merger equilibrium (which is unobserved *ex ante*), HHI analysis provides economically sensible information about likely merger effects that can be combined with other relevant information. Hence, we view the use of the HHI in merger review, as suggested (for example) in the 2010 Horizontal Merger Guidelines, to be economically well founded.

Of course, it can be helpful to supplement an analysis of the HHI with other qualitative and quantitative evidence. Quantitative evidence may include econometric analyses seeking to understand price variation.²⁴ When there is sufficient reliable data, such studies can be informative about the competitive effects of mergers, if carefully implemented. The studies might consider the effects of previous entry, exit, or mergers on prices and other variables.²⁵ For example, it can be informative to understand how prices have responded to previous mergers, and regressions can be appropriate for such an inquiry. Such 'merger retrospectives' can provide direct evidence about the likely competitive effects of a

22 In a model of Cournot competition with constant marginal costs and linear demand, most mergers are not profitable in the absence of efficiencies. For example, see Stephen Salant, Sheldon Switzer and Robert J Reynolds, 'Losses from Horizontal Merger: The Effects of an Exogenous Change in Industry Structure on Cournot-Nash Equilibrium' (1983) 98 *Q.J. Econ* 185. The figures reported in Table 2 continue to hold exactly, but those mergers would be profitable, if the mergers yield sufficiently large reductions in fixed costs.

23 See, for example, the citations in Nocke and Whinston (n 2).

24 We are not suggesting that such studies should be treated by agencies and courts as a necessary prerequisite to predicting that proposed mergers are anticompetitive.

25 A more complete discussion is provided in the 2010 Horizontal Merger Guidelines, s 2.

proposed merger, subject to caveats, including that the evidence is more informative when the market environments of the previous mergers and the proposed merger are similar. Similarly, it can be informative to know whether price differences across regions can be attributed to differences in the number of competitors, and carefully conducted regression analyses that identify the causes for the differences in the number of competitors again can be appropriate.²⁶ Such comparisons helpfully featured in analyses of the Staples/Office Depot merger proposed in 1996, for example.²⁷ Methodological challenges will still exist, and solutions may go beyond simple OLS regression, but the 'causal effect' of these variables is, at least, well defined.

Our conclusion is straightforward to state: merger analysis benefits from discussions of the HHI, particularly of likely changes in the HHI that would result from a merger. Merger analysis can also benefit greatly from other qualitative and quantitative evidence, including econometric studies that are designed to estimate causal effects on prices and other outcomes. However, merger analysis does not benefit from regressions of price on the HHI, which have been firmly rejected, for excellent reasons, by decades of academic research.

APPENDIX 1

This appendix summarizes the equations used for the numerical results in Sections III and V. Let the market inverse demand curve be $P(Q) = a - bQ$, and let there be $n = 1, 2, \dots, N$ firms. In equilibrium, the output of firm i is given by:

$$q_i = \frac{a - c_i + N(\bar{c} - c_i)}{b(N + 1)}$$

where c_i is the marginal cost of firm i and $\bar{c} = \frac{1}{N} \sum_n c_n$ is the average marginal cost. The equilibrium price is

$$P = \frac{a + N\bar{c}}{N + 1}$$

And the equilibrium market quantity is

$$Q = \sum_n q_n = \frac{N(a - \bar{c})}{b(N + 1)}$$

26 Our Table 2 example shows that the 'causal effect of a change in the number of firms' is well defined in a simple Cournot model. Thus, while regressions of price on the number of firms may (or may not) face the problems of econometric endogeneity and simultaneity discussed above, they are fundamentally well defined in a way that regressions of price on the HHI are not.

27 Serdar Dalkir and Frederick R Warren-Boulton, 'Prices, Market Definition, and the Effects of Merger: Staples-Office Depot (1997)' in John E Kwoka, Jr and Lawrence J White (eds), *The Antitrust Revolution: Economics, Competition, and Policy* (4th edn, Oxford University Press 2004).

The market share of each firm i can be calculated as $s_i = \left(\frac{q_i}{Q}\right)$. The equilibrium HHI is:

$$HHI = 10,000 \times \sum_n s_n^2$$

And the implied change in HHI due to a merger of firms i and k is:

$$\Delta HHI = 2 \times s_i \times s_k$$

In the production of [Tables 1](#) and [2](#), the market shares are rounded prior to the calculation of HHI and ΔHHI . To illustrate, with Region B of [Table 1](#) we have $10,000 \times 0.38^2 \times 0.62^2 = 5288$.